

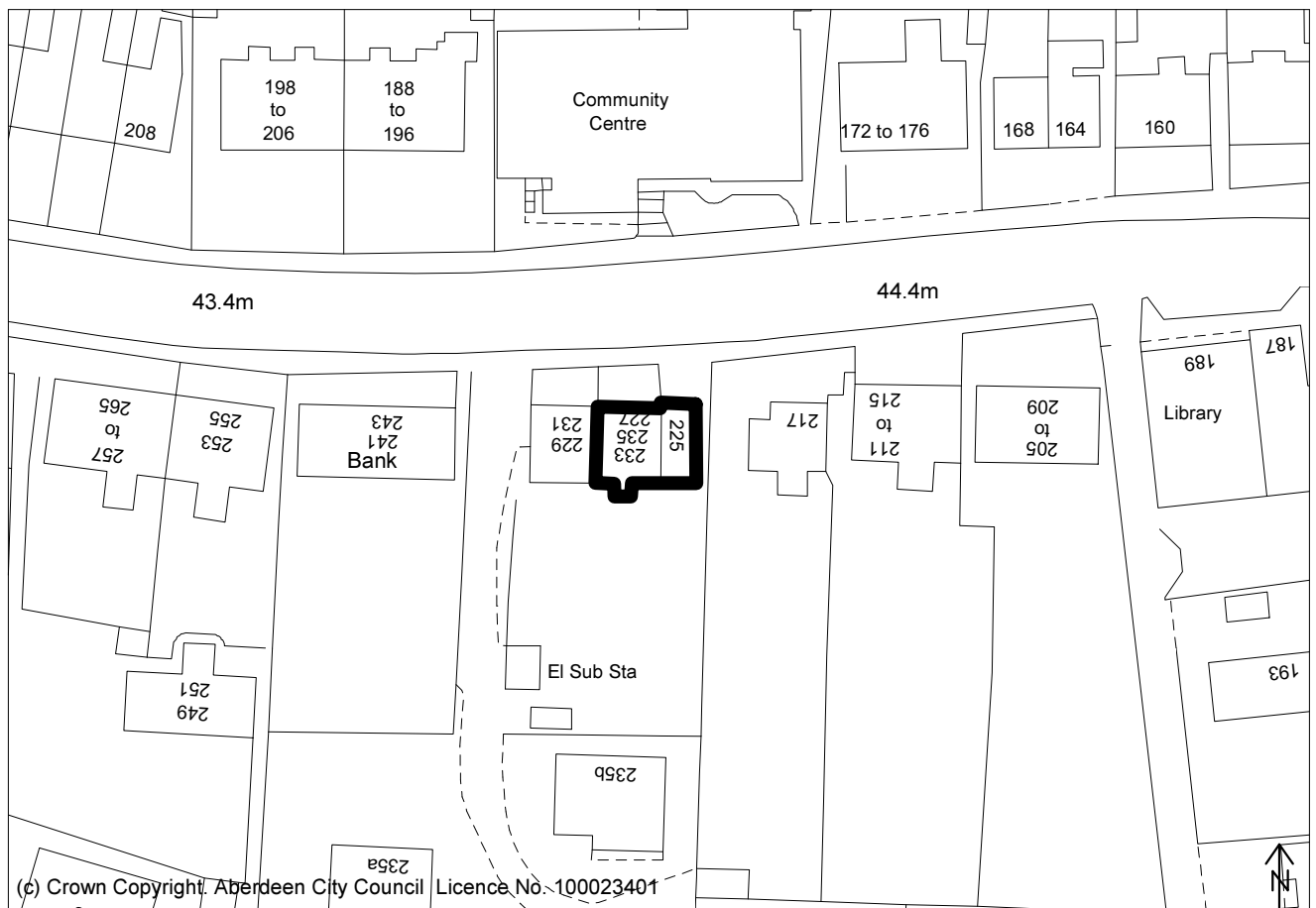
225 NORTH DEESIDE ROAD,
PETERCULTER

RETROSPECTIVE CHANGE OF USE
FROM CLASS 1 TO MIXED USE CLASSES
1 & 3 INCLUDING OUTDOOR SEATING
AREA

For: Cocoa Ooze

Application Ref. : P120193
Application Date : 10/02/2012
Officer : Jennifer Chalmers
Ward: Lower Deeside (M Boulton/A
Malone/A Milne)

Advert : Section 34 -Proj. Pub.
Concern
Advertised on : 07/03/2012
Committee Date : 19th April 2012
Community Council : No response received



RECOMMENDATION: Approve subject to conditions

DESCRIPTION

The site is located on the south side of the North Deeside Road. The application property is on the ground floor and there are private residential flats immediately above and below. The shopfront is set approximately 4.6m back from the pavement and there is on street parking directly out front.

PROPOSAL

Detailed planning permission is sought to obtain retrospective change of use from class 1 to mixed use classes 1 & 3 including outdoor seating area.

There are 3 no tables of 4 within the front shop area and a further dining area to the rear of the property again with 3 no tables of 4. Externally there are 2 no tables with 3 chairs at each.

The shop is producing and distributing chocolates, is holding chocolate events/workshops and also serves as a sit in café offering cold food and drinks, such as soup, sandwiches, Paninis, coffees and cakes.

REASON FOR REFERRAL TO SUB-COMMITTEE

The proposed change of use from Class 1 to Class 1 & 3 was advertised as a Section 34 (Project of Public Concern) under Development Management Procedure Regulations 2008 – Schedule 3. Therefore, in terms of the Council's Scheme of Delegation, the application is required to be determined by the Development Management Sub-committee.

CONSULTATIONS

ROADS SECTION – No objection provided 1 no sheffield stand provided, providing 2 no spaces.

ENVIRONMENTAL HEALTH – Request that there be no frying of foods and to restrict the operational hours to prevent potential noise nuisance.

COMMUNITY COUNCIL – No observations received

REPRESENTATIONS

One letter of representation has been received. The objection relates to:

- The emphasis of the business towards parties and group events and courses leads to dangerous roads and parking conditions.
- The applicant's proposed use will lead to significant noise and disturbance to the occupiers of residential properties in the immediate vicinity.

PLANNING POLICY

Aberdeen Local Development Plan: Policy RT3 (Town, District and Neighbourhood Centres) – proposals for changes of use from retail to non-retail use in town, district and neighbourhood centres will only be allowed if:

1. the proposed alternative use makes a positive contribution to the vitality and viability of the shopping centre; and
2. the proposed alternative use will not undermine the principal retail function of the shopping centre or the shopping development in which it is located; and

3. the applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use since the property became vacant; and
4. the proposed use caters for a local need; and
5. the proposed use retains or creates a live and attractive shop frontage.

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require planning applications to be determined in accordance with the development plan unless other material considerations suggest otherwise.

The other issues to be evaluated within this report are:

- Noise
- Car Parking

The retrospective change of use needs to be assessed against Policy RT3 as mentioned above. It is considered that the proposed use makes a positive contribution to the vitality and viability of the district centre and would not undermine the principal retail function of the area. The proposal is considered to cater for a local need as the business provides a small seating area for locals to meet as well as helping the local economy. The premises has a large glazed frontage allowing for people to see both into the premises as well as out, creating a live and attractive street frontage. Under the existing permission, chocolate can be produced and sold together with any ancillary activities taking place and the only element that requires permission are the indoor and outdoor seating areas. In terms of the events and workshops, these are considered to be ancillary to the primary purpose of the business.

In terms of car parking, the roads engineer has acknowledged that there is no car parking provision but finds the proposal acceptable as it is deemed that parking demand is unlikely to have a detrimental effect on the local area and that the premises are within a 400m walk of existing bus stops on the North Deeside Road providing an acceptable level of access to public transport. The roads engineer has however requested the applicant to provide 1 no Sheffield cycle stand within the external area to the front of the property.

In relation to noise emanating from the premises, it is recognised that a degree of noise generally is expected within a flatted property. However, Environmental Health have suggested that a condition be attached, restricting the operational hours in order to prevent any potential noise nuisance.

Overall, it is considered that the retrospective change of use is considered acceptable and that the attached conditions will deal with the objectors concerns. The proposal accords with the Aberdeen Local Development Plan, in terms of the policy on district and neighbourhood shopping centres.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

that the retrospective change of use is considered acceptable and that the attached conditions will deal with the objectors concerns. The proposal accords with the Aberdeen Local Development Plan, in terms of the policy on district and neighbourhood shopping centres.

it is recommended that approval is granted with the following condition(s):

- (1) that the premises shall not operate other than during the hours from 8.00 am until 8.00 pm, Mondays to Saturdays inclusive and from 1.00pm until 6.00pm on a Sunday, unless the planning authority has given prior written approval for a variation - in order to preserve the amenity of the neighbourhood.
- (2) that no frying operations shall be carried out on the premises, unless the planning authority has given prior written approval for a variation - in order to prevent the creation of nuisance by the release of odours.
- (3) that the use hereby granted planning permission shall not take place unless provision has been made within the outdoor seating area for 1 no. sheffield cycle stand unless otherwise agreed in writing with the planning authority - in order to preserve the amenity of the neighbourhood and in the interests of public safety.

Dr Margaret Bochel

Head of Planning and Sustainable Development.