

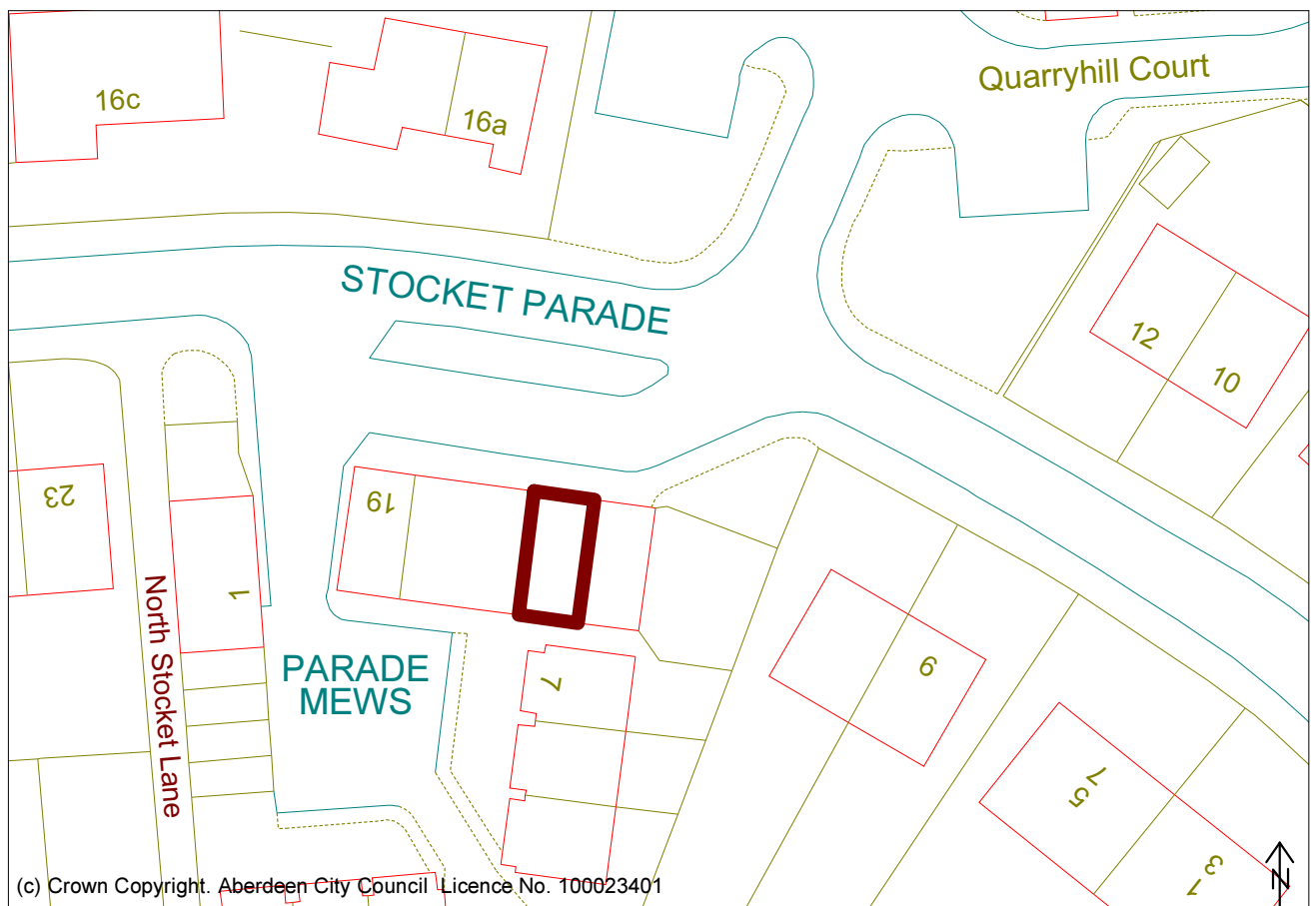
15 STOCKET PARADE, ABERDEEN

PROPOSED CHANGE OF USE OF THE
PREMISES FROM CLASS 1 (SHOP) TO
HOT FOOD TAKE-AWAY.

For: Mr Lukasz Sieron

Application Ref. : P120302
Application Date : 28/02/2012
Officer : Frances Swanston
Ward: Northfield (J Dunbar/S Carle/G
Graham)

Advert : Section 34 -Proj. Pub.
Concern
Advertised on : 21/03/2012
Committee Date : 14 June 2012
Community Council : Comments



RECOMMENDATION: Approve subject to conditions

DESCRIPTION

This site comprises a unit located within a single storey parade of four shop units which function as a local shopping centre for the surrounding residential area. The unit has a gross floor area of approximately 60 square metres and up until recently, had been vacant for approximately 10 years. The applicant is currently using the shop unit to sell cold food to take away. The units front onto and are accessed from the inset road / parking area which lies to the north of the site. The adjacent unit to the east is used as a Chinese take-away. It has an extract duct, which terminates at the rear part of the roof, close to the house at No.7 Parade Mews. The adjacent unit to the west is used as a general store, which sells hot pies and microwave heated food on an ancillary basis. No. 19 is a hairdressers shop. Immediately to the south of the site is a modern development of 2 storey terraced houses with associated parking and turning area which is accessed from Stocket Parade. The closest house (No. 7) has a gable wall facing the application site.

HISTORY

Planning permission was refused, against Officer Recommendation, for the change of use of the unit from a betting office to a hot food take away (reference A5/1356) in August 2005 for the following reasons *"that the proposed change of use would increase the potential for odour and litter nuisance, for the congregation of youths, for an increase in traffic and for an increase in parking problems, all of which are issues which would detract from the general residential amenity of the area."*

Prior to this, planning permission was granted in 1988 for the change of use of the shop unit to a betting office (88/0510).

PROPOSAL

Detailed planning permission is sought for the change of use of the unit to a hot food take away (sui generis). No internal alterations are proposed that require planning permission. The applicant proposes to sell sandwiches, burgers, pizzas and kebabs to take away and offer a delivery service. The applicant proposes to install a pizza oven, one griddle, a single kebab machine and a non-commercial small fryer for cooking chips.

The applicant states that for the first few months the hot food take away is operating there would be no deliveries. After this there would be one driver using a motorbike bike or car (depending on whether conditions). Deliveries would be made from approximately 4.30pm to 10.30pm. No cars/bikes would be parked in the area over night or during the day apart from for the collection of orders for delivery.

REASON FOR REFERRAL TO SUB-COMMITTEE

The Mastrick and Sheddocksley Community Council object to the application. Therefore the application falls outwith the Council's Scheme of Delegation requiring determination by the Sub-Committee.

CONSULTATIONS

ROADS SECTION – The Roads Engineer

Initially advised that the applicant would be required to provide two dedicated parking spaces for the take away and requested additional information from the applicant regarding the delivery aspect of the proposed use. The applicant confirmed that only one delivery driver would be used and that no vehicle would be parked by the unit during the day or over night. The Roads Engineer does not object to the application and is satisfied that whilst there are no dedicated parking spaces for the unit, there is no evidence of parking problems in the area and that parking for the proposal can be accommodated within existing parking spaces.

ENVIRONMENTAL HEALTH –The Environmental Health states that in principle, based on the type of equipment described by the applicant and the types of food proposed to be cooked, although not objecting to the proposal the Officer would highlight that the premises be restricted to the equipment submitted and that the operator be informed should the application be approved that should there be complaints regarding odour that is proven to be a statutory nuisance that it would not prevent action being taken to remove the concern. The Officer recommends suitable conditions be attached dealing with the filtering and extracting of cooking fumes and the installation only of the equipment proposed by this application.

COMMUNITY COUNCIL – The Mastrick and Sheddocksley Community Council object to the application on the grounds of late night disturbance, litter and cooking smells and the impact this would have on the residential amenity of those living near by.

REPRESENTATIONS

None.

PLANNING POLICY

Aberdeen Local Development Plan

Policy H1 Residential Areas

Within existing residential areas, proposals for non-residential uses will be refused unless:

1. they are considered complementary to residential use; or
2. it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

Supplementary Guidance: Harmony of Uses

The SG gives guidance for proposals for hot food take-always in particular matters dealing with amenity, noise, smell, litter, ventilation equipment as well as traffic and parking. Hot food take-aways raise sensitive amenity issues for neighbouring properties in particular issues with noise, smell and litter. There are potential conflicts between the different uses. The guidance note states that:

- there will be a presumption against the location of hot food shops in areas allocated as and immediately adjacent to Residential Areas in order to safeguard residential amenity.
- Applications for hot food shops should allow satisfactory arrangements for parking and access.
- The Planning Authority will also require to be satisfied that hot food shop proposals can provide adequate means of extracting, treating and dispersing odours without an unduly adverse effect on residential and visual amenity.

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The site is allocated in the Aberdeen Local Plan as an H1 Residential Area albeit the row of units contain non-residential uses. As such Policy H1 states that within existing residential areas, proposals for non-residential uses will be refused unless:

1. they are considered complementary to residential use; or
2. it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

There is a general presumption against hot food takeaways in residential areas. The onus is on the applicant to demonstrate that the new use would not cause a conflict with or any nuisance to the enjoyment of the existing residential amenity.

The applicant proposes to sell burgers, chips, pizzas and kebabs (hot food) as well as a selection of cold sandwiches and wraps. In order to do this, the applicant proposes to install a small pizza oven, one small griddle, a single kebab machine and a non-commercial small fryer for cooking chips. The applicant proposes to undertake a limited degree of cooking on the premises. It is also proposed to install an extractor which would be positioned on the roof. The Environmental Health Officer in his assessment of the application has no objection to the proposed change of use, providing the applicant operates the business on the scale proposed with only the equipment proposed as part of this application. It is recommended that conditions be attached to 1) limit the type of cooking equipment installed, 2) a detailed scheme of filtering and extraction and 3) provision of litter bins; to ensure the scale and type of hot food cooked on the premises is controlled to an acceptable level, and would not cause a nuisance to the enjoyment of existing residential amenity.

In terms of the issues raised by the letter of objection from the Mastrick and Sheddocksley Community Council, the issue of cooking smells has been dealt with above. The Community Council state they have further concerns regarding cooking smells and the unacceptable effect of these on the residents of the flats directly above the shops. For the avoidance of doubt, there are no flats directly above the shops. The closest residential properties are behind (to the south) of

the application site at Parade Mews as well as opposite the application site at Quarryhill Court. The application site is in close proximity to 7 Parade Mews, which is 2 metres from the rear wall of the application site. All of the activity associated with the hot food takeaway would however take place at the front of the building. The Environmental Health Officer is satisfied there would be no nuisance caused to residential properties provided conditions are attached to restrict the type of food cooked on the premises. The application unit is one unit in an existing row of four units, one of which is a Chinese take away, which has been in operation for many years.

In terms of late night disturbance, the applicant proposes to finish deliveries around 10:30pm. It is proposed to attach a condition restricting the operation of the hot food takeaway to 8:00am to 11:00pm Mondays to Saturdays with no hot food being sold on Sundays. In terms of litter generation, it is proposed to attach a condition to any approval to require provision within the application site for litter disposal and, if appropriate, recycling facilities in order to preserve the amenity of the neighbourhood and in the interests of public health.

In terms of access, parking and deliveries, there is a small area of parking associated with but not exclusive to the units at Stocket Parade. The Roads Engineer does not object to the proposed change of use. The applicant confirmed that only one delivery driver would be used and that no vehicle would be parked by the unit during the day or over night. There is a requirement for 2 parking spaces for the hot food takeaway. The applicant is not able to provide 2 dedicated spaces. However there is no evidence of car parking problems in the area and the Engineer is satisfied that the parking required for the proposal can be accommodated within the existing parking spaces.

In conclusion, there is an existing hot food take away that currently exists immediately adjacent to the site. 15 Stocket Parade up until recently has been vacant for many years showing an apparent lack of demand for retail uses in the area. The Environmental Health officer has no objections to the proposal, subject to the imposition of suitable conditions and the Roads Engineer is satisfied that there would be no access or parking issues resulting in the approval of the application. It is therefore considered that whilst there is a presumption against hot food takeaways in residential areas in both Policy H1 and the Harmony of Uses SG, the applicant has demonstrated that, subject to suitable conditions being attached to any approval, the proposed use would not result in conflict with or cause a nuisance to the existing residential amenity of the area to such an extent as to warrant refusal.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

That the change of use to a hot food takeaway is acceptable at the location proposed and would cause no conflict with or any nuisance to, the enjoyment of existing residential amenity, subject to suitable conditions restricting the type of

cooking equipment to be installed to limit the type of hot food cooked on the premises, hours of operation and the provision of litter bins, in accordance with Policy H1 of the Aberdeen Local Development Plan.

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

(1) that the use hereby granted planning permission shall not take place unless a scheme showing the proposed means of filtering, extracting and dispersing cooking fumes from the premises has been submitted to and approved in writing by the planning authority and that the said scheme has been implemented in full and is ready for operation – in order to preserve the amenity of the neighbourhood.

(2) that no cooking/frying operations or hot food preparation shall be carried out on the premises other than those detailed in the supporting letter received 17/5/12: a pizza oven, small griddle, single kebab machine and a small (non-commercial) chip fryer 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 application site for litter disposal and, if appropriate, recycling facilities in accordance with a scheme which has been submitted to and approved in writing by the planning authority - in order to preserve the amenity of the neighbourhood and in the interests of public health.

(4) that hot food shall not be sold from the premises other than during the hours from 8.00 am until 11.00 pm, Mondays to Saturdays inclusive. Hot food shall not be sold from the premises at any time on a Sunday - in order to preserve the amenity of the neighbourhood.

Dr Margaret Bochel

Head of Planning and Sustainable Development.