

DESCRIPTION

The application site is a retail unit located on the eastern side of the Gallowgate, which forms part of a small parade of commercial units.

The premises comprise a ground floor and basement unit with an overall floor space of approximately 68m². The frontage comprises a typical shop front arrangement with windows and a single door.

The unit was last occupied by 'Aquarius', a bathroom and kitchen showroom.

The parade of shops also comprise a newsagent at 156 Gallowgate and vacant premises at 152-154 Gallowgate which are Council owned and appear to have last been used as Class 2 (Financial, Professional and Other Services) offices.

To the south (22m) is Seamount Court, a 20 storey residential tower block, to east is the entrance to the West North Street multi-storey car park, to the west across Gallowgate is Aberdeen College and approximately 28m to the north beyond an area of landscaping, are three storey flats at 160 – 168 Gallowgate.

HISTORY

- Planning permission (88/0412) was granted in May 1988 by delegated powers for change of use from Class 1 (Shop) to Class 2 (office) for the 'Instant Neighbour' charity.
- At some point it would appear the unit has reverted back to Class 1 use through the use of permitted development rights.

PROPOSAL

It is proposed to change the use of the premises from Class 1 (Shops) to a hot food takeaway.

The floor plans show a small customer area, servery and kitchen on the ground floor and a preparation area, toilet and office at basement level.

An exhaust flue would be installed on the rear elevation of the building in order to disperse cooking odours. It would extend 1m beyond the highest part of the flat roof of the building.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application is before the Sub-Committee because it is a Schedule 3 (Bad Neighbour) development

CONSULTATIONS

ROADS SECTION – Do not consider the shortfall of two parking spaces would have any significant effect on parking as the development lies within a controlled parking zone.

ENVIRONMENTAL HEALTH – No objection to the proposal but would recommend that suitable conditions are attached requiring (1) the provision of a system for the filtration and ventilation of cooking odours, (2) provision of suitable litter bins outside the premises and (3) provision of waste storage facilities.

COMMUNITY COUNCIL – No response received.

REPRESENTATIONS

One letter of representation has been received from the chair of the Gallowgate Residents Association. Whilst not against the principle of the proposal, the following matters of concern are raised –

- the proximity of the hot food takeaway to Seamount Court in the event of a fire.
- the proposed hours of trading and resultant noise disturbance.
- the potential for customers to indiscriminately park vehicles
- the potential for litter to be left
- the disposal of refuse from the premises

PLANNING POLICY

Aberdeen Local Development Plan (2012)

Policy H2 (Mixed Use Areas) – Applications for development or change of use within mixed use areas must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity. Where new industrial, business or commercial uses are permitted, development should not adversely affect the amenity of people living and working in the area.

The site is zoned as a neighbourhood centre where Policy RT3 (Town, District and Neighbourhood Centres) applies – Proposals for change of use from retail to another use will only be permitted if –

- The proposed alternative adds to the viability and vitality of the area.
- It will not undermine the principal retail function of the area.
- A lack of demand for the continued retail use can be demonstrated.
- The proposed use caters for a local need.
- A live street frontage is created or maintained.

The site is within the identified city centre boundary.

Supplementary Guidance

Harmony of Uses – Residential, Licensed Premises and Commercial Uses – In all other areas of the city centre zoned as mixed use (H2), proposals for hot food shops will be considered on their individual planning merits. Approval will not normally be granted however, if the upper floors of the application property or adjacent properties are in residential use and or the amenity of other existing housing would be adversely affected by proposals.

In assessing hot food shop proposals within town centres, district centres and neighbourhood centres, consideration will be given to whether or not the proposal makes a positive contribution to the overall viability of a centre –

- Bringing into use a vacant unit with consideration given to the length of time a unit has been vacant
- Provide a locally required service
- Retain an acceptable level of 'live' frontage
- Be strategically situated within a shopping centre eg. it is important that corner shop units provide live shop window displays to enhance the attraction of a shopping centre

EVALUATION

Viability and Vitality of Neighbourhood Centre

A proliferation of non-retail uses can affect the viability and vitality of a shopping area and therefore each change of use from Class 1 (Shops) has to be assessed on its merits and how it may impact upon the overall centre.

The property has been vacant for approximately a year with the Council selling the property to the current owner in May 2012. The current letting agent has advised that the only interest in the property so far has been from those seeking to operate a hot food takeaway. Although Gallowgate is a relatively busy street, the premises are set back from the pavement by around 15m and behind landscaping which results little footfall outside the actual site, resulting in an unattractive premises for retailers.

In this case the centre comprises two retail units and a Class 2 office use. The units at Gallowgate have very limited functionality as a shopping centre and only really provide a local convenience store service to the surrounding area. It is considered that the loss of the retail unit to a hot food takeaway use would not undermine the viability or vitality of the centre as the proposed use is likely to generate the same if not more footfall than a Class 1 (Shop) use at this location.

Although it is not for the planning authority to determine whether a business would be viable or to restrict competition between different operators, Policy RT3 does require the new use to cater for a local need. The closest existing hot food takeaways are located either on King Street to the east or George Street to the west. It is considered that a hot food takeaway at this location would provide residents with further choice should they wish to purchase takeaway food.

No external physical alterations are proposed to the shopfront and live frontage would be maintained.

The introduction of a hot food takeaway would increase the diversity of uses within the area which is considered to be desirable and it is considered that the vitality and viability of the centre would be maintained. It is considered that the proposal complies with Policy RT3.

Amenity

- Due to its city centre location, the Gallowgate is a relatively busy street both in terms of vehicular and pedestrian movements; therefore there is activity in the area well into the evening. There is a mix of uses in the Gallowgate, although the northern end is more residential in nature than the southern end closer Broad Street. The closest residential property is 22m away within Seamount Court; however none are located directly above or adjacent to the premises.

Given the existing level of activity in the area, it is not considered that the introduction of a hot food takeaway would result in an unacceptable level of disturbance being experienced by residents in the area.

A late hours catering license from the Councils Licensing Committee would be required to allow the premises to open between the hours of 2300 and 0500, however given that the area is predominately residential, it is considered reasonable to restrict the hours of opening through a planning condition to between 0700 and 2200 Sunday to Thursday and 0700 to 2300 on Friday and Saturdays, in order that residents do not experience any unreasonable disturbance later in the evening.

- The proposed plans show that a ventilation system would be installed to collect smoke and grease particles from the cooking appliances in the kitchen and disperse cooking odours via a flue at the rear of the premises. Environmental Health officers have raised no objection to the proposal and a condition has been attached requiring details of the extract system to be installed. It is considered that with a suitable system installed there would be no adverse impact upon the amenity of the area in terms of cooking odours.
- There are already litter bins directly outside and in the vicinity of the premises available for potential customers to use. Agreement has been reached with the Environmental Health service that no further litter bins are therefore necessary.
- A condition has been attached which requires details of where and how refuse generated by the premises would be stored. There would appear to be an area at the rear of the premises which could accommodate bins.
- The potential for the premises to catch fire is not a planning matter. It is the applicant's responsibility to ensure they comply with the relevant regulations in terms of fire safety.

The proposal would comply with Policy H2 and would be acceptable within a mixed use city centre area. It is considered that there would be no unreasonable change in the level of amenity experienced by residents.

Roads Safety

The site is located close to a pedestrian crossing with associated parking restrictions. Parking restrictions also apply around the rear of the property which and would deter any indiscriminate parking. The Council's roads service has raised no objections to the proposal.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

The introduction of a hot food takeaway would increase the diversity of uses within the area which is considered to be desirable and it is considered that the vitality and viability of the centre would be maintained and that the proposal complies with Policies RT3. It is considered that there would be no unreasonable change in the level of amenity experienced by residents and that the proposal complies with Policies H2 the Harmony of Uses Supplementary Guidance. There would be no adverse impact on road safety.

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 detailed 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 prevent cooking odours from creating a nuisance to nearby residential properties.

(2) that the use hereby granted planning permission shall not take place unless provision has been made within the application site for refuse storage and disposal 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.

(3) that the premises shall not be open for business outwith the hours of 0700 and 2200 Sunday to Thursday and 0700 and 2300 Friday and Saturday - in order to protect the nearby residents from unreasonable disturbance.

Dr Margaret Bochel

Head of Planning and Sustainable Development.