

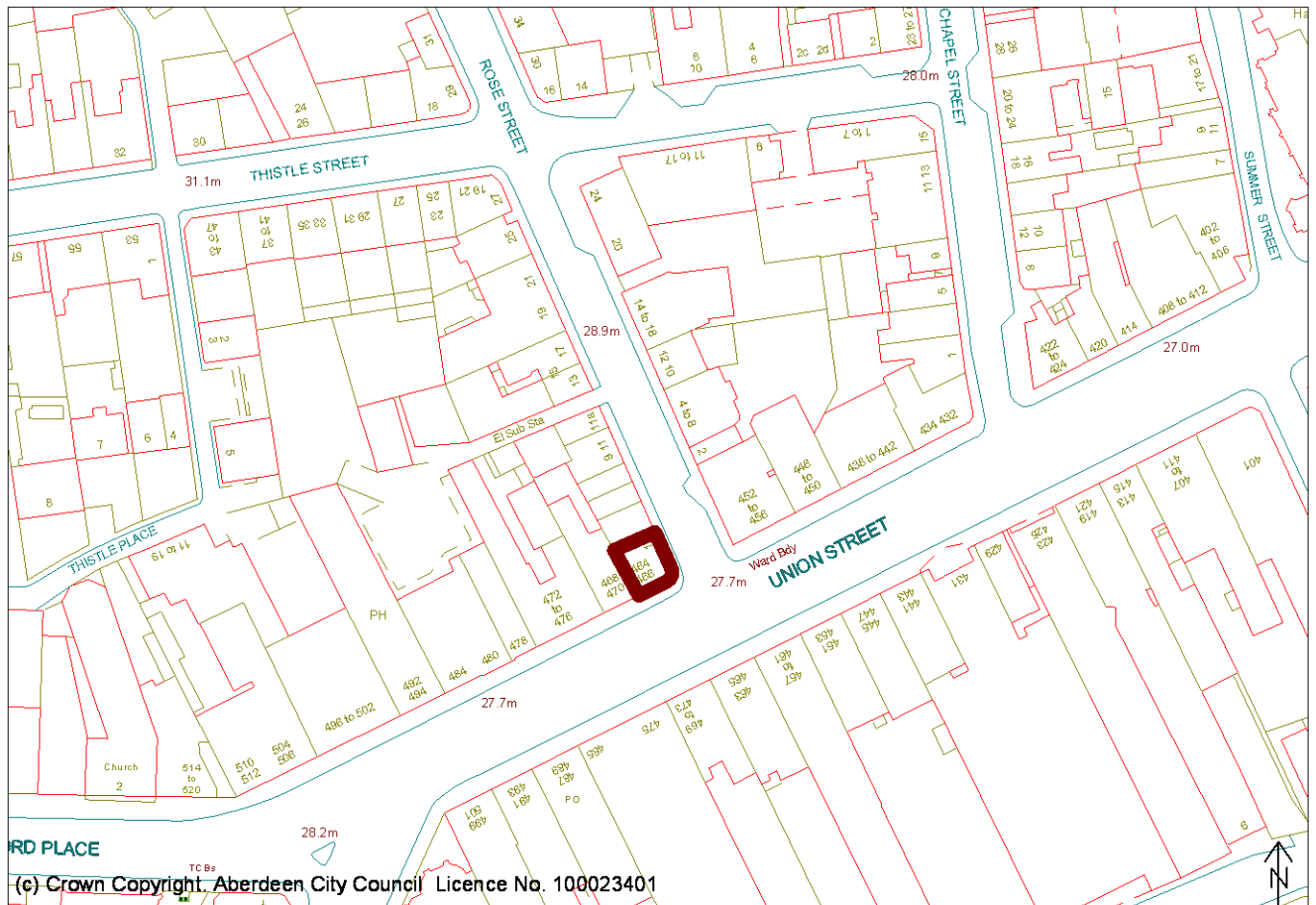
466 UNION STREET, ABERDEEN

CHANGE OF USE TO CLASS 3 USE (CAFE / SNACK BAR)

For: Hamish Munro

Application Ref. : P121287
Application Date : 14/09/2012
Officer : Robert Forbes
Ward: Torry/Ferryhill (Y Allan/A Donnelly/J Kiddie/G Dickson)

Advert : Section 34 -Proj. Pub.
Concern
Advertised on : 26/09/2012
Committee Date : 6 December 2012
Community Council : No response received



RECOMMENDATION: Approve subject to conditions

DESCRIPTION

The premises comprise a disused retail unit occupying the ground and basement of a 3 ½ storey tenement block at the corner of Rose Street and Union Street. It is accessed via a door on the corner and has display windows onto both streets. It has been vacant since 2009 and has a total floor area of 248 square metres.

The upper floors of the building are used as flats and have separate access from Rose Street. The building is of Victorian origin and traditional construction. There are a mix of commercial uses in the surrounding area, including hot food take away premises on Rose Street. The ground floor premises directly to the east, across Rose Street, is used as a coffee shop.

HISTORY

In November 2005 the Planning Committee refused planning permission for the change of use of these premises to a hot food take away (specifically a chip shop). This decision was subsequently appealed with the decision letter being issued on 11 July 2006. The appeal was dismissed, the grounds including the established policy regarding hot food take away uses within properties also containing residential units. However, the reporter also referred to the policy regarding retail frontages along Union Street and observed that the policy guidance required a retail frontage of 40% in this sector and, were the appeal premises to obtain change of use out of retail, the proportion would fall to 22%, well below the policy figure. He therefore concluded that the proposals would not accord with the development plan.

A subsequent application for planning permission for change of use of the premises to restaurant use (ref A7/2218) was refused at committee in 2008 on the grounds of contravention of planning policy, detriment to residential amenity and creation of an undesirable precedent.

PROPOSAL

Planning permission for change of use of the premises to form a class 3 use (i.e. cafe / snack bar) is sought. The proposal has been amended to delete the use as a hot food take away element originally proposed. No external alterations to the premises are proposed and no details of the internal arrangement have been provided. The basement would be used for general storage and staff facilities only with the public trading restricted to the ground floor. The existing access would be retained.

REASON FOR REFERRAL TO SUB-COMMITTEE

The proposal required advertisement as a project of public concern and so fell outwith the Council's scheme of delegation.

CONSULTATIONS

ROADS SECTION – No objection;

ENVIRONMENTAL HEALTH – No objection subject to conditions regarding hours of operation, restriction of cooking, provision of refuse storage and noise attenuation;

COMMUNITY COUNCIL – No response received

REPRESENTATIONS

None

PLANNING POLICY

The site lies within the City Centre Business Zone (policy C2) identified in the Adopted Local Plan of 2012. Proposals for change of use from retail to other use in this case must accord with the Union Street Frontages Supplementary Guidance. This controls the level of non retail frontage. Due consideration shall be given to the extent to which daytime vitality would be maintained and enhanced by allowing a mix of active ground floor uses, such as financial and professional services (Class 2), cafes and restaurants and hotels at the West End of Union Street. At street level an active street frontage shall be maintained.

SPP encourages enhancement of the vitality and viability of existing retail centres.

EVALUATION

This proposal requires to be determined in accordance with the development plan, unless outweighed by other material considerations. The development plan consists of the adopted local development plan and the approved structure plan. The other material considerations include Scottish Planning Policy and the planning history of the site, including the previous appeal.

The proposal differs from that which was considered at appeal in 2006 as a hot food take away is not now proposed. Furthermore, in contrast with the previous applications, the current proposal does not now conflict with the Council's SPG regarding Union Street Frontages as the minimum % of class 1 (retail) use for this sector of Union Street would be achieved and the nature of the use is such that it would enhance the daytime vitality of the shopping centre. It would therefore accord with local plan C2. Given the corner location of the unit and the presence of large display windows, maintenance of active street frontages is considered important in the interest of vitality.

The Council's Environmental Health Officers have no objection to the current proposals subject to imposition of conditions, so that any impact on amenity would not be insurmountable. Given the presence of a similar use to the proposal directly across from the site (Caffe Nero) creation of an adverse precedent is not a justifiable reason for refusal in this case. In any event, the daytime nature of the use and the restricted nature of any cooking are such that a restricted class 3 use is compatible with both residential amenity and protection of the retail environment.

Subject to imposition of conditions to restrict the nature and function of the use, the proposal would not result in detriment to residential amenity and would accord with the Council's objectives regarding preservation of the vitality of the shopping centre, so that it would accord with local plan policy and Scottish Planning Policy.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

Subject to imposition of conditions to restrict the nature and function of the use, it would not result in detriment to residential amenity and would accord with the Council's objectives regarding preservation of the vitality of the shopping centre, so that it would accord with local plan policy and Scottish Planning Policy.

It is recommended that approval is granted with the following conditions:

(1) that no cooking operations (including deep fat frying and shallow frying) or hot food preparation shall be carried out on the premises other than the re-heating of pre-cooked produce by means of a microwave oven or the preparation and toasting of sandwiches and paninis, 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.

(2) that the premises shall not operate or be open to the public outwith the hours from 7.00 am until 8.00 pm on any day, unless the planning authority has given prior written approval for a variation - in order to preserve the amenity of the neighbourhood and prevent disturbance to nearby residents.

(3) That no part of this development shall take place unless a detailed assessment of the likely sources and levels of noise arising within, and those audible outwith, the premises has been submitted to, and approved in writing by, the planning authority. The noise assessment shall be carried out by a suitably qualified independent noise consultant. All noise attenuation measures identified by the noise assessment which are required in order to prevent any adverse impacts on the amenity of residents in the surrounding area shall be installed prior to commencement of the use hereby approved, unless the planning authority has given prior written approval for a variation - in the interests of residential amenity.

(4) That the use hereby granted planning permission shall not take place unless provision has been made within the application site for refuse storage and storage of recyclates 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.

(5) No development shall take place pursuant to this planning permission unless details of the proposed ground floor site layout and treatment of the display windows has been submitted to and approved in writing by the planning authority. The use shall not take place other than in accordance with such approved details or such other details as may subsequently be approved - in order to ensure an active / live window display and preserve the vitality of the shopping centre.

Dr Margaret Bochel

Head of Planning and Sustainable Development.