

2nd April 2014;

Our Ref: LE/214411

Aberdeen City Council
Enterprise, Planning & Infrastructure
Business Hub 4
Ground Floor North
Marischal College
Broad Street
Aberdeen
AB10 1AB

F.A.O. Mr Gavin Clark

Dear Gavin,

OBJECTION TO PLANNING APPLICATION REF: 140273 FOR THE CHANGE OF USE FROM CLASS 1 RETAIL TO HOT FOOD TAKE AWAY (SUI GENERIS) AND INSTALLATION OF FLUE AT 21 UNION STREET, ABERDEEN, AB11 5BU

Keppie Planning and Development have been instructed by our clients Markten Ltd, the owners of The Atheneum, 15 Union Street to submit this letter of objection in response to the application for the change of use from Class 1 retail to hot food take-away (sui generis) and installation of flue at 21 Union Street, Aberdeen.

Our clients wish to object to this application based on the following grounds:

- The proposals do not comply with local planning policy; specifically they do not comply with Policy C2: City Centre Business Zone and Union Street and the associated Supplementary Guidance on Union Street Frontages March 2012.
- The level of Class 1 retail uses will be reduced to less than the 65% minimum level of retail frontage required in sector H (Market Street to Exchequer Row) as prescribed in the Local Plan and Supplementary Guidance;
- Likely adverse impact of the development in terms of odours and noise on residential amenity;
- Potential parking issues which may be caused by home deliveries or collection of take-away orders;
- The hot food take-away is not a compatible use for the eastern end of Union Street, such uses are more appropriate towards the western end of the street;
- Further evidence should be provided regarding the effectiveness of the flue system and the means of collection of waste generated by the proposed use.

Planning Policy Review

With regard to the assessment of the application in planning policy terms, it is submitted that the proposed development should be reviewed against the following Aberdeen City Local Development Plan 2012 policies and other relevant Council guidance:

- Policy C2: City Centre Business Zone and Union Street;
- Policy R6: Waste Management Requirements for New Development;
- Supplementary Guidance: Union Street Frontages March 2012

Policy C2 states that *"proposals for a change of use from retail (Class 1 of the Use Classes Order) to other uses within the City Centre Business Zone will only be acceptable if (1) the proposal is in Union Street it must accord with the Union Street Frontages Supplementary Guidance"*.

As the proposed development site is located on Union Street, it is therefore appropriate to move onto the assessment of the proposals against the Supplementary Guidance (SG) as detailed above.

The Supplementary Guidance relating to Union Street frontages states that *"proposals to enhance the vitality and viability of Union Street as a key retail location within the City Centre will be supported"*. It is submitted that the current proposals to introduce a Sui Generis use into this retail frontage is not appropriate and would not enhance the vitality and viability of Union Street as a key retail location as the unit will be devoid of a suitable retail occupant.

The guidance seeks to provide minimum ground floor retail frontage percentages which will be acceptable in the different sectors of Union Street (as annotated in plan 1). The proposed development site lies within Sector H: Market Street to Exchequer Row (3-67 Union Street).

Sector H sets a current minimum level of retail frontage required at ground floor level at 65% and it is noted that this level *"has been reasonably constant for some time"*. Table 1 of the SG highlights that at the time of preparation (25th November 2011) Sector H had an actual retail percentage of 68.3% which resulted in a spare capacity of +3.3% over the minimum 65% retail frontage level.

Prior to the preparation of this representation a site visit was carried out on 26th March 2014 to establish the current retail provision within Sector H, the survey details are provided in the table below:

Union Street Unit Current Occupant	Use Class (as per the Use Classes Order)	Notes
The Atheneum (vacant)	3	Last known use pub/restaurant
RS McColl	1	-
Vacant (application site)	1	Last known use shoe shop
Tourist Information	2	-
Gift Shop	1	-
Pawn shop	2	-
British Heart Foundation	1	-
Amplifan Hearing Specialist	1	-
Vue Cinema	11	-
Convenience Store	1	-
Annie Mos	1	-
Pound stretcher	1	-
First Bus Travel Centre	2	-
Semi Chem	1	-
Greggs	1	-
Vacant	2	Last known use Santander
Poundland	1	-
Vacant	1	Last known use JJB Sports
Sports Direct	1	-
Total Number of Units		
19		

From the table above it can be concluded that the 19 units within Sector H can be broken down as follows:

Class 1 = 13 units

Class 2 = 4 units

Class 3 = 1 unit

Class 11 = 1 unit

The SG notes that where a unit is vacant, its last known use is used to calculate the actual ground floor retail frontage, except where a vacant unit has an extant planning permission that has not yet been implemented. From review of the Council's online planning portal, we were unable to establish any extant consent's relative to this sector.

On this basis, the current retail percentage for Sector H equates to 68.4% which is in line with the SG levels and allows a spare capacity of +3.4%.

The proposed change of use to remove the Class 1 use and replace it with a Sui Generis use would then reduce this percentage to 63.1% with a spare capacity of - 1.9% which would result in the proposed development being unacceptable in terms of the retail frontage levels in this Sector. The SG does provide a limited flexibility of up to 1% below the minimum required level provided that the proposals comply with any other relevant criteria in the SG. It is submitted that the proposals would exceed the flexibility level as it would result in a negative value of 1.9% below the required 65% retail frontage levels.

The SG also notes that there is a desirability to encourage the *"diversity of city centre uses and activities at the west-end"* of Union Street. It is considered that the proposed hot food take-away use would be more appropriate within the west-end area of Union Street where minimum retail percentages are lower. It is inappropriate to allow the reduction of retail frontages in an area which has been able to maintain levels of 65% or above for some time and therefore the current application should not receive Council support.

With regard to the above, it is strongly suggested that the proposed change of use would result in the retail frontage levels of Sector H falling unacceptably below the 65% level as prescribed by the SG and therefore the proposals do not comply with the provisions of either Policy C2 of the Local Development Plan or the provisions of the Supplementary Guidance: Union Street Frontages.

Policy R6 states that *"details of storage facilities and means of collection must be included as part of any planning application for development which would generate waste"*. Due to the nature of the proposals it is fully expected that there would be substantial levels of waste generated from a hot food take-away. It is suggested that further details of where the waste will be collected from should be submitted by the applicant to allow the Council to fully assess the impacts of the proposed change of use. Until such time, it is considered that the proposed development does not comply with the provisions of Policy R6.

With regard to the above, it is considered that the proposals do not comply with the Council's Development Plan.

Odours, Noise & Parking

The Council will be aware of the level of recent investment that has been put forward by our clients in order to bring The Athenaeum building back into use and re-invigorate the eastern end of Union Street through the introduction of serviced apartments. It is with this in mind that our clients have further concerns regarding the proposed hot food take-away being located in such close proximity to the new serviced apartments within the Listed Building.

It is submitted that the proposed change of use will give rise to issues relating to odours, noise and parking.

Whilst a flue is proposed, there is no evidence that the system proposed will adequately eliminate the unwanted odours from the hot food take-away which would ultimately lead to unacceptable residential amenity issues.

In terms of noise, disturbance could be created from the noise of the flue system and from the increase in customers late into the evening. If the Council were to consider approving this application, it is requested that suitable conditions should be applied to the consent to impose maximum noise levels and to specify the hours of operation.

The proposed change of use to a hot food take-away could also give rise to inappropriate/illegal parking due to home delivery vehicles or vehicles parking to collect orders. The increase in vehicles could result in road and pedestrian safety issues. If the Council were to consider approving this application, it is requested that a suitable condition be imposed to restrict the home delivery and collection facility.

Conclusions

We would finally like to reiterate that this representation seeks to object to the proposals subject of application 140273 on the following grounds:

- The proposals do not comply with local planning policy; specifically they do not comply with Policy C2: City Centre Business Zone and Union Street and the associated Supplementary Guidance on Union Street Frontages March 2012.
- The level of Class 1 retail uses will be reduced to less than the 65% minimum level of retail frontage required in sector H (Market Street to Exchequer Row) as prescribed in the Local Plan and Supplementary Guidance;
- Likely adverse impact of the development in terms of odours and noise;
- Potential parking issues which may be caused by home deliveries or collection of take-away orders;
- The hot food take-away is not a compatible use for the eastern end of Union Street, such uses are more appropriate towards the western end of the street;
- Further evidence should be provided regarding the effectiveness of the flue system

We trust that the Council will take the above mentioned points into consideration when assessing the suitability of this site for the development and ultimately recommend that the application be refused given that the proposals do not accord with the policies and guidance of the Local Development Plan.

We trust that the above is clear; however should you require any further clarification on any of the information provided, please do not hesitate to contact me. In the meantime we would be grateful if you could confirm receipt of this objection prior to the deadline for comments.

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Yours sincerely,



Laura English
Senior Planner

P&SD Letters of Representation		
Application Number: 140 273		
RECEIVED - 3 APR 2014		
Ngr	Soj	MAp
Case Officer Initials: GAC		
Date Acknowledged: 4-4-14		

Directors: W Baxter Allan Dip Tp MRTPI Gordon MacCallum Dip Tp MRTPI

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www.keppiedesign.co.uk

PI

From: webmaster@aberdeencity.gov.uk
Sent: 02 April 2014 13:33
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Christopher Forbes

Address : 32 Ruthrieston Circle, AB10 7JX

Telephone :

Email : [REDACTED]

type :

Comment : Hi.

I'm not satisfied with the fact that there is going to be a new kebab shop on Union Street. This Street is full of well-established companies and I am not quite sure if that is going to go well with them. Most of them are Class 1 and a new kebab shop definitely will not help them to keep the class level.

PI

From: webmaster@aberdeencity.gov.uk
Sent: 03 April 2014 09:38
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Sarah Colquhoun
Address : 46 Market Street,
Aberdeen
AB11 5QE

Telephone :

Email : [REDACTED]

type :

Comment : As the operator of an independent Beauty clinic on Market Street ; I feel I have to object to this application.

My business currently sits between two take-away's with another hot food outlet at the top of the road and another a stone's throw away around the corner.

I fear that this application would have a detrimental impact on an area of the city where everyone is working together to make improvements.

I have first hand experience of how, through no fault of their own, take away's become a beacon for noise, bad smells, mounds of litter and loitering late at night.

Having taken the time to inspect the location for this application - my first thought was of the bad behavior that would ensue late at night along the laneway to Exchequer Row which is already dark and unsafe.

Here on Market Street, we are constantly trying to improve the image of the area so that successful independent business can survive and I strongly believe that encouraging a similar business model to those that are already in existence yards away is a mistake.

Would it not be better to encourage a new shop or store to open it's doors on Union Street which was once the place to go in the city?

PI

From: webmaster@aberdeencity.gov.uk
Sent: 02 April 2014 16:55
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : John Healy
Address : Flat B
6 Trinity Street
Aberdeen
AB11 5LY

Telephone :

Email : [REDACTED]

type :

Comment : I live close to this and already have issues with rubbish in our street from hot food takeaways and the mess created as a result. There have been great steps forward with restaurants being refurbished in the area and the new signage going in empty shops to brighten in the area. I don't want to see Union Street, Exchequer Row and Shiprow filled with rubbish, crowds of youths at all hours of night disturbing local residents and spilling out all over the roads and footpaths creating a nuisance of themselves. It is great to see development in the area and buildings being brought back into use, but this is at the cost of local residents, visitors and the street cleaners who will inevitably end up having to clear up all of this mess which will blow along our main street and gather in door ways taking away any of the appeal which Aberdeen Inspired have tried to inject into the city as a whole. There will also be a surge in irresponsible parking and abandonment of cars near the unit to collect food, as this already happens elsewhere in the city with double parking, blocking of the road and clear breach of parking restrictions when the parking wardens are no longer in action, and the police have bigger things on their plates. I hope this application is seriously considered for the impact it will have on all senses - smell, sound, sight and the feel of the grease which will inevitably coat windows, doors and stairwells that local residents have to use, and hope it is not allowed to proceed.

PI

From: webmaster@aberdeencity.gov.uk
Sent: 02 April 2014 17:23
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Rose Hickey
Address : Caversham Management
Adelphi Business Centre
19 Adelphi
Aberdeen
AB11 5BL

Telephone :

Email : [REDACTED]

type :

Comment : On behalf of Caversham Management who own a number of properties in the area, I would like to object to the application to allow a hot food outlet at 21 Union Street. There is already an ample provision in the area of takeaways and sit in restaurants - these restaurants are doing their best to capture trade and keep it in the city centre, not attract passing drunken and potentially destructive groups of people, or taxis/other vehicles to park precariously whilst collecting food or passengers. We are also concerned about the lack of parking in the area or appropriate space to pull in to collect people or food from these outlets. It is important to see developments happen, and we are fully in support of this, but the right developments and the right uses have to be put together. There is a recommended minimum level of retail frontage required at ground floor level which if this development proceeds would be reduced below the level set. there will also be a lot of noise, smell, litter and loitering in the area which will have a detrimental effect on existing and proposed residential, mixed use and retail units in the area. There will be very few retail units that would wish to move in next to a hot food outlet so the %of retail in the area will only decrease.

PI

From: webmaster@aberdeencity.gov.uk
Sent: 02 April 2014 12:35
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : catherine shaughnessy

Address : 4 shiprow

Telephone :

Email : [REDACTED]

type :

Comment : I would like to object to the proposed development of a take away opening at 21 Union Street on the grounds that I feel the area has become more developed in recent months, noise levels late at night have become less of an issue with the closure of the night club in the area as has the level of anti social behaviour that comes with late night premises been open. The idea of another take -away opening in the area will have serious consequences when it comes to the issue of littering on the streets, people loitering late at night, which I feel as a tenant living in close proximity will have a very negative effect on the area.

PI

From: webmaster@aberdeencity.gov.uk
Sent: 02 April 2014 14:16
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Gavin Paterson
Address : 43-45 Market Street
Aberdeen
AB11 5EL

Telephone : [REDACTED]

Email : [REDACTED]

type :
Comment : OBJECTION TO PLANNING APPLICATION REF: 140273 FOR THE CHANGE OF USE FROM CLASS 1 RETAIL TO
SUI GENERIS CLASS 3 HOT FOOD TAKE AWAY AND INSTALLATION OF FLUE AT 21 UNION STREET, ABERDEEN, AB11
BU

I would like to object to the above application for the following reasons:

- • It would reduce the amount of Class 1 retail use within that stretch of union street taking it to below the percentage that is allowed for within the union street shop front policy
- • The potential for smells coming from the business affecting the flats above
- • The potential for loitering of youths outside and disposal of litter
- • Late night disturbance

The hotel is investing in the Athenaeum building with apartments which are desperately required within the Aberdeen market and feel this application would cause on going disturbances for this development.

Regards
Gavin Paterson

PI

From: webmaster@aberdeencity.gov.uk
Sent: 03 April 2014 10:13
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Robin Keane
Address : Alcore Construction
19 Adelphi
Aberdeen
AB11 5BL

Telephone : [REDACTED]

Email : [REDACTED]

type :

Comment : Having worked on a numerous refurbishment jobs for local retail owners I feel that the opening of another kebab shop would go against everything they have been trying to achieve within the merchant quarter. Having worked in the area over the past 15 years we have recently seen a real change in the area for the better and the opening of another late night fast food business, and the problems that go with it, would only harm all the good work thats been done. (anti social behaviour, litter, noise pollution etc)

PI

From: webmaster@aberdeencity.gov.uk
Sent: 02 April 2014 16:36
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Natalie Floris
Address : Aberdeen Best Kebab
26 Market Street
Aberdeen
AB11 5PL

Telephone :

Email : [REDACTED]

type :

Comment : On behalf of Aberdeen Best Kebab i would like to object to the application for a hot food takeaway on Union Street as it is in breach of the councils policy on the number of retail units present on the street. This requirement is outlined in the Local Plan and Supplementary Guidance where the are 21 Union Street is in is referred to as 'Sector H'. The area is well served with existing sit in restaurants, bistros as well as hot food outlets operating at night and during the day and we do not feel that the area needs nor could sustain another hot food business

Robert Vickers

From: webmaster@aberdeencity.gov.uk
Sent: 03 April 2014 16:04
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : ENSCO 330 Ltd
Address : 2 Guild Street
Merchant Quarter
Aberdeen
AB11 6NE

Telephone :

Email [REDACTED]

type :

Comment : OBJECTION TO PLANNING APPLICATION at 21 Union Street, Aberdeen, AB11 5BU

We own a number of properties on Market Street, and Guild Street and have been working with other business owners to improve the appearance and atmosphere along Market Street and within the wider 'Merchant Quarter' We are delighted to see the progress and support new businesses and developments appearing in the area and along Union Street. It is great to see the investment by the council and private owners. I do however, object to the introduction of a kebab shop in this unit which was formerly the foot factory, at 21 Union Street. The noise, smell and litter that will be generated will have a detrimental effect on a number of businesses in the area including the tenants of our properties. There are plenty of 'sit in' restaurants and several takeaways in the area, so I don't believe there is a need or demand for an additional hot food unit. There are recommendations in place and the change of use from a retail unit to a class 3 hot food outlet would be in breach of the councils own guidelines, as well as being a big step backwards for the area which has seen great improvement in recent years. The building the shop sits in is a listed building and as such the frontage will need to be in keeping with the style of the building similar to the restrictions in place on Market Street that ourselves and our tenants have to adhere to, and there is no information on the proposed frontage of the Kebab shop, or very much detail on the actual extraction proposed it seems very generic the brands of extraction. I would be concerned about the noises of the fans, the opening hours of the shop, the litter and the groups of people hanging around in the evenings outside the kebab shop. For the reasons above, we would like to object to the application.

Regards

Robert Keane
ENSCO 330 Ltd

Robert Vickers

From: webmaster@aberdeencity.gov.uk
Sent: 03 April 2014 16:24
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Margaret Colquhoun
Address : 14 Beaver Road
Belle Vue
Carlisle
Cumbria
CA2 7PS

Telephone :

Email : [REDACTED]

Type :

Comment : I am a frequent visitor to Aberdeen, and have witnessed the recent decline on Union Street as people move to shop in the shopping centres or online. It is a tragedy to see these main shopping streets in town centres dying, and once they are allowed to descend into pound shops and greasy spoon takeaways retail will never return - recently Union Street has seen the introduction of Jamie's Italian, Cafe Nero and nearby this unit there are new apartments going in which will bring a lot of business people to the area as well as the Micasa Apts which are a little further down, there are several offices nearby and a kebab shop doesn't really fit with these. The little lane which goes down to Marks and Spencers had recently been done up and is beautiful as is the artwork on the Adelphi lane there is clearly a lot of investment in the area and these lane ways should not be full of cigarette ends and kebab papers and half eaten remnants of the night before smeared all over them. The laneway to the cobbled shiprow could become a hangout for kids and drunken people drawn to the kebab shop blocking the pavement and spilling onto the road which is intimidating to walk past in the evening, and also will disturb a lot of the residents living nearby. The smell of a kebab shop doing their preparation for evening trade, service and even after they close will be extensive and it will prevent shoppers progressing down and into the castlegate which has a number of shops and a lovely square which visitors and residents should feel comfortable and safe to enjoy like the squares and parks are enjoyed in other cities, rather than being surrounded by litter, food waste and seagulls squabbling for the remains of a discarded kebab. It's also a terrible impression for a visitor to the city coming out of the visit Scotland shop to walk into kebab mess and smell - hardly a great first impression! Welcome to Aberdeen - sorry we would have tidied up if we knew you were coming! The council offices and a court are just across the way as well so it's not very nice for a function at the town house to be surrounded by the smell and litter of the kebab shop. I hope that this permission is not granted and a more suitable use for the property is found to fit in with the other lovely buildings and businesses nearby.

PI

From: webmaster@aberdeencity.gov.uk
Sent: 02 April 2014 19:50
To: PI
Subject: Planning Comment for 140273

Comment for Planning Application 140273

Name : Kate O'Neill
Address : 19 Adelphi,
Merchant Quarter,
Aberdeen
Ab11 5Bl

Telephone :

Email : [REDACTED]

type :

Comment : I object to this application on the following grounds:

As someone who works on Adelphi Lane – I was upset to get such late notice that there has been application submitted to introduce yet another take away to the area.

All we hear about now is the demise of Union Street – so it would be a huge disappointment to many to hear of another space for a retail store of some kind to open in this part of Union Street has been lost.

I can only imagine the effect this would have on this area – I regularly use the Shiprow area and Exchequer Row and I often work late.

There would be more rubbish, more people gathered there hanging around and traffic would be seriously effected – work vans already use this area so delivery vans would add even more to the chaos.