

Signed (authorised Officer(s)):

13 & 15 CHAPEL STREET, ABERDEEN

CHANGE OF USE FROM RETAIL (CLASS 1)
TO BUSINESS (CLASS 4) AND ALTERATIONS
TO GROUND FLOOR FRONTAGE

For: Knight Property Group

Application Type : Detailed Planning Permission

Application Ref. : P140130

Application Date : 21/02/2014

Advert :

Advertised on :

Officer : Sally Wood

Creation Date : 28 March 2014

Ward: Midsocket/Rosemount (B Cormie/J

Laing/F Forsyth)

Community Council: No response received

RECOMMENDATION:

Refuse

DESCRIPTION

The application site is located on the corner of Thistle Street and Chapel Street, and relates to two ground floor units which are currently occupied by retailers (Class 1 use). The applicant currently occupies unit 11 Chapel Street at the ground floor, which provides an entrance and reception area to the upper floors. The upper three floors are used as serviced office facilities.

The boundary of the Union Street Conservation Area lies immediately to the south of 5 Chapel Street, some 12 metres from the application site boundary.

The building is not listed.

RELEVANT HISTORY

130952 Removal of existing shopfront and stall riser, and replacement with new fully glazed shopfront. Granted unconditionally, 02.08.2013*.

*That consent does not allow for a change of use, which appears to have occurred at ground floor level, which is a separate consideration, outwith the remit of this application.

PROPOSAL

The application seeks detailed planning permission for the change of use of unit 13 Chapel Street, which is currently occupied by a charity shop, and unit 15

Chapel Street which is currently occupied by a clothes shop. This application relates to the ground floor units only.

The application also seeks detailed planning permission for alterations to the shopfront which would remove the entrances into units 13 and 15, and replace them with new shopfront with stallrisers. The units would only be accessed internally from the adjacent ground floor unit at number 11.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=140130>
On accepting the disclaimer enter the application reference quoted on the first page of this report.

1. The applicant has submitted a supporting statement by Ryden (received 21.03.14) which sets out their reasons for why the application should be supported.

CONSULTATIONS

Roads Projects Team - The parking requirement is almost the same as the present situation therefore no additional parking spaces would be required and moreover the development lies in a city centre and in a control parking zone. The proposal would not have any effect on parking.

In accordance with Supplementary Guidance, the proposal must include a minimum of 4 cycle long stay stands within an enclosed secure lockable compound or within the building. Request that the applicant revises their design to include this requirement.

Environmental Health – comments, no observations.

Enterprise, Planning & Infrastructure (Flooding)- comments, no observations.

Community Council – no comments received.

REPRESENTATIONS

None.

PLANNING POLICY

National Policy and Guidance

Scottish Planning Policy

Scottish Planning Policy (SPP) seeks to promote appropriate development, particularly within existing settlements. It seeks high quality development that is sympathetic to its setting and takes into consideration amenity.

Town centres are a key element of the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilities, as well as homes and businesses. Retail and leisure uses are fundamental to the concentration of other activities located in town centres and planning authorities should support a diverse range of community and commercial activities in town centres (para. 52).

The planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development (para. 57).

All retail, leisure and related developments should be accessible by walking, cycling and public transport. (para. 61).

Aberdeen City and Shire Structure Plan

Provides a spatial strategy for development, to ensure the right development in the right place to achieve sustainable economic growth which is of high quality and protects valued resources and assets, including built and natural environment, which is easily accessible.

Aberdeen Local Development Plan

Policy D1 - Architecture and Placemaking

Ensures that high standards of design are achieved through a number of considerations, including context, to ensure that the setting of the proposed development and its design is acceptable.

Policy C2 – City Centre Business Zone and Union Street

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 :

ii) in other parts of the City Centre Business Zone (i.e. not on Union Street) it can be demonstrated that there is 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 how the new use contributes to the wider aims for city centre enhancement; and

- the proposed new use must enhance or adequately maintain daytime vitality, and an active street frontage; and
- the alternative use does not conflict with the amenity of the neighbouring area.

Policy T2 - Managing the Transport Impact of Development

New developments will need to demonstrate that sufficient measures have been taken to minimise the traffic generated. Maximum car parking standards are set out in Supplementary Guidance on Transport and Accessibility.

Policy R6 - Waste Management Requirements for New Developments

There should be sufficient space for the storage of residual, recyclable and compostable wastes. It should accord with Supplementary Guidance on Waste Management.

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Principle

Both units subject to this planning application currently fall within use Class 1 – Retail, and are currently in use by retailers. The site lies within the City Centre as identified in the Local Development Plan. On that basis, it is considered that Policy C2 (City Centre Business Zone and Union Street) is the most applicable policy relating to principle. It states that, in other parts of the City Centre Business Zone (i.e. outwith Union Street) if it can be demonstrated that there is 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 how the new use contributes to the wider aims for city centre enhancement; and

- the proposed new use must enhance or adequately maintain daytime vitality, and an active street frontage; and
- the alternative use does not conflict with the amenity of the neighbouring area.

The units have not been marketed at all, and are both occupied. On that basis it is considered that the application fails on the first element of the policy as it has not been demonstrated that there is a lack of demand for continued retail use of the premises. It is judged that the loss of these two units would undermine the retail frontage of Chapel Street.

The application is supported by a written statement that notes that the existing adjacent unit (11) and upper floors have been leased to Bluesky Business Space since October 2013, “who have leased the entire space to Statoil (UK) Limited”, who will use the space as their head office in Aberdeen until 2016. The statement notes that Statoil currently employs 100 people (approximately) and that this continues to arise to about 10 per month, and therefore the company has a pressing need for additional accommodation. It states that the company wish to remain within the city centre but there is a lack of office space.

The statement notes that the retail unit at 15 Chapel Street “has not been trading particularly well...it is likely they will come out of the unit sooner rather than later”. “The lease on the charity shop at 13 Chapel Street is also due to expire soon”. It further notes that allowing the change of use would ensure retention of the existing staff in the city centre and provide room for an additional 42 staff.

The supporting statement considers that allowing the change of use would not only retain existing staff but would also introduce additional employees within the west end which would be beneficial to the existing class 1, 2 and 3 uses within the local area. It considers that the use would increase footfall as staff would contribute to the evening economy, unlike the existing retail uses which trade for a limited period throughout the day. Furthermore, it considers that the proposed use caters for a local need, that the conversion is not speculative but sought to address the urgent requirement of an existing business within the city centre.

The statement contends that planning policies R3 and R4 and their footnote are relevant. The supporting statement considers that in light of their comments, the application be amended to permit a temporary change of use for a limited time period until the end of 2016. However, it is noted that in correspondence from the applicant that they sought a temporary consent for 5 years when asked for further information relating to the marketing of the property as required by planning policy (e-mail 11.03.2014).

In response to the main points of the supporting statement by Ryden, planning policy does not allow for temporary changes of use. A temporary change of use for more than two years would remove these units from active retail use. The supporting statement refers to planning policy R3 and R4, of which there are no such policies within the Development Plan. It is considered it is meant to refer to RT3 (Town, District and Neighbourhood Centres) and RT4 (Local Shops), which are not directly relevant. However, a ‘Note’ within the Development Plan states that proposals for change of use where lack of demand is a factor should provide evidence that the property has been actively marketed for six months or more, and it specifically refers in brackets to policies RT3 and RT4, whereas planning policy C2 specifically states proposals for change of use from retail to other uses will only be acceptable if...“It can be demonstrated that there is 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 how the new use contributes to the wider aims for city centre enhancement". The property has not been marketed at all, and it is considered 6 months would be reasonable in line with the planning policy 'note' pertaining to RT3 and RT4. It is considered that the proposal fails to comply with planning policy C2 as it emphasises what steps have been undertaken to secure a retail occupier following vacancy, whereas in this case neither of the units are vacant, they are both in operation.

There is no evidence submitted that the applicant's client Statoil has been flexible in their approach to acquiring additional office space and what other units have been considered which demonstrates a lack of office space within the city. The change of use of these two units subject to this application are not considered insignificant, and there is real concern that any other use than retail could undermine the existing retailers, and change the dynamics of this part of Chapel Street. There is no evidence that these units are no longer required for retail uses, which are both currently occupied. If the application were to be approved it may result in the loss of the opportunity for retail investment and could contribute to the cumulative loss of retail uses from this sector even if granted for a temporary period until end of 2016, which is some 33 months away.

Given the prominent location of the premises on this part of Chapel Street it is considered important, in terms of vitality, that a use which retains active display windows and physical sale of goods is retained. As class 4 uses are characterised by a tendency to have restricted window displays and no on site sale of physical goods, it is considered that the proposed use would result in the detriment to the vitality of the shopping centre contrary to the objectives of local plan policy.

Design

The external alterations to the shopfront are considered acceptable, although it should be noted that if approved would mean that units 13 and 15 would not have their own individual entrances. The supporting statement from Ryden requests that a temporary consent is granted until end of 2016, but the external alterations would mean that future conversion would be more problematic, and could put retailers off as the units would not have an independent entry.

It is noted that the submitted existing elevations are inaccurate in terms of the two units, but it is considered that this has not adversely impacted on this assessment.

Other

It is considered that cycle parking spaces could be secured by condition. In addition, it is considered that there would be sufficient space for waste and

recycling facilities. The proposal is judged not to be in conflict with planning policies T2 or R6 of the Aberdeen Local Development Plan.

Conclusion

The fact that the premises are currently occupied, located within a prominent location (a corner location) on Chapel Street and currently used for purposes which actively contribute to the vitality of the shopping centre are material considerations which weigh against the current proposal. No evidence of marketing of the unit has been provided, and was requested.

RECOMMENDATION

Refuse

REASONS FOR RECOMMENDATION

The proposed use conflicts with Planning Policy C2 (City Centre Business Zone and Union Street) of the adopted Aberdeen Local Development Plan. The units are in occupation and no evidence has been submitted of their marketing to demonstrate that there is a lack of demand for continued retail use of the premises. The application site includes two retail units, one of which is considered to be in a prominent location on Chapel Street by virtue of its corner siting, and their relationship with other adjacent retail uses. Any change of use could undermine the viability of retail in this west end locality.

The proposed use could result in detriment to the vitality and potential viability of the shopping centre by the absence of a live frontage / window display and the lack of activity within the premises when compared to the existing authorised uses.

No adequate reasons for setting aside the above policies and guidance have been identified and the other material considerations do not justify approval of the proposal.

Approval of this application would result in an undesirable precedent for similar proposals that would cause further erosion of retail uses, conflict with the Development Plan and would cause further detriment to the vitality and potential viability of the shopping centre.