

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management
DATE	14th July 2016
DIRECTOR	Pete Leonard
TITLE OF REPORT	Union Street Enforcement Investigation
REPORT NUMBER	PDMC/16/111
CHECKLIST COMPLETED	YES

1. PURPOSE OF REPORT

To inform Members of the extent and nature of potential planning enforcement action required in relation to Union Street and to seek authority to pursue potential enforcement action where considered necessary and expedient in order to rectify specific breaches of control.

2. RECOMMENDATION

That Members note the contents of this report and instruct officers to undertake such action as considered appropriate.

3. FINANCIAL IMPLICATIONS

There are no specific implications for revenue and capital budgets, financial risk, or state aid arising from consideration of this report. Some cost may be incurred if direct action to secure compliance with an enforcement notice is necessary. This can generally be accommodated within existing budgets. Actions outwith budget parameters will trigger a specific report being submitted to Committee to seek authorisation or other instructions.

4. OTHER IMPLICATIONS

Normal Health & Safety at Work considerations apply. If successful enforcement is not carried out, there may be implications for health and safety in relation to specific unauthorised works. Scottish Ministers attach great importance to effective enforcement as a means of sustaining public confidence in the planning system. The long term credibility of the planning service is dependent on effective enforcement activity. Effective enforcement should result in greater protection for the environment and aids implementation of planning

policy. There would be no direct impact on any of the Council's property functions, unless breaches of planning control have occurred on land within the ownership of the Council. In such cases, the use of planning enforcement action against the Council as owner is not considered appropriate, and use of alternative powers by the Council as landowner is sought to resolve such breaches.

5. BACKGROUND/MAIN ISSUES

5.1 There is a lengthy planning history in relation to civic interest in protection of the amenity and character of Union Street and more generally in recognition of the importance of that street in terms of both townscape and planning policy. The Council's predecessor first adopted generic policy for control of advertisement in conservation areas in 1968. Policy guidelines in relation to the control of advertisements specifically on Union Street appear to have first been adopted in 1970, soon after the formal designation of the Union Street area as a conservation area in 1968. This policy was reviewed in 1979 when specific criteria based guidance for control of signage on Union Street were approved by Committee. In 1983 a report to the Planning and Building Control Committee of the City of Aberdeen District Council was prepared in response to concerns from a local amenity body regarding "unsuitably large and vividly coloured shop signs in the central shopping area of Aberdeen". At that time the preparation of an illustrated "Design Guide on Advertising with the Central Area" was recommended. The approval of such guidance, which was expanded to include reference to shopfront design generally, was undertaken in 1990 and forms the basis of current supplementary guidance which is referenced in the Adopted Local Plan. With regard to roller shutters, guidance was originally developed by the Council in 1987 and subsequently adopted in 1991 as part of an Adopted Local Plan.

5.2 The Union Street Conservation Area Appraisal of 2007, which informs the Council's strategy for management of the conservation area, is an important material consideration in assessing planning applications which impact on this character. It recognises that "not many examples of original shopfronts survive on Union Street". It states that "Shopfronts can act as a unifying element to the streetscape; however, there are many examples of alterations where original proportions and material have been lost". The appraisal identifies inappropriate shopfronts and signage as a negative feature within the conservation area, with particular concerns in relation to "corporate identity", use of inappropriate sub-fascia / fascia box signage and obliteration (obscuring) of original fascias and pilasters. It recognises that shopfronts and signs change quickly and encourages compliance with the Council's Shopfront Design Guide.

5.3 It is evident that, despite the historic policy and guidance referred to above, there is ongoing public and civic concern regarding the function, vibrancy, character and amenity of Union Street. There is particular concern regarding its declining role and importance in the civic life of the city and as a commercial centre. Many of these

concerns relate to wider issues (e.g. Economic downturn, Quality of Retail Offer, Traffic Management, Street Cleaning, Urban Realm Quality, Street Furniture Clutter, Air Quality, Anti-Social Behaviour) which lie outwith the scope of this report to address, but in which other Council services have an interest. Other concerns (e.g. Competition from other centres, Vacancy Levels, Lack of Investment in property, Lack of Maintenance, and Disuse of upper floors) are more appropriately addressed through the Development Planning process, City Centre Masterplan, and by action by property from property owners. A recent motion to the Council's Finance and Resources Committee, whereby officers have been instructed and resources allocated to enable enhanced cleaning of Union Street and to undertake survey of neglected buildings, is of relevance in this regard. It is not the intention of this report to duplicate such statutory processes, rather to identify and focus on specific planning breaches where action by the Planning Authority is warranted.

5.4 The spatial strategy of both the Adopted Local Plan and its proposed replacement promoted the city centre as the commercial, economic, social, civic and cultural heart of Aberdeen. The maintenance of a vibrant city centre and enhancement of its fine buildings and open spaces is vital to Aberdeen's future prosperity and to sustaining its attractiveness as a place to live and visit. A specific policy and supplementary guidance relating to Union Street seeks to enhance its vitality and viability in recognition of its key location at the heart of the city centre.

5.5 Following the Council's adoption of the Aberdeen City Centre Development Framework in February 2012, Union Street has remained a key focus of policy / strategy development. The City Centre Masterplan, which is a Corporate document setting out a long term vision for the future of the City Centre, envisages significant change to the management of Union Street within the next 25 years. It, and related planning policy within the Adopted Local Plan, encourages re-use of upper floors, including for residential purposes, and significant commercial investment in the city centre. Delivery of many of the interventions / projects planned is, however, likely to be dependent on commercial viability and investment decisions of third parties, including property / landowners. An ongoing issue highlighted in the Masterplan is that of lack of building / site maintenance, particularly relating to some neglectful / absentee landlords. In some serious cases, where public safety may be threatened, use of enforcement powers under building regulations is appropriate. However, whilst the general lack of building maintenance (e.g. vegetation / algal growth on stonework / roof cleaning / unblocking of rainwater goods) is an ongoing long term issue that adversely affects the visual quality, amenity, and perception of the City Centre, it is considered that this issue is best addressed by other means than use of statutory planning enforcement powers. It is hoped that the interventions planned in the Masterplan will help reverse the decline by stimulating investment in buildings and creating a renewed sense of pride in the City Centre.

5.6 The attached table provides a summary of investigation of potential planning enforcement breaches on Union Street (including Castlegate and Castle Street which are functionally part of the street). It identifies cases where no breach of planning control has occurred, where it is not considered expedient to enforce and cases resolved through negotiation. In particular, it sets out cases where further action by the Council is considered necessary in the interest of preservation of the amenity, character and function of the area in accordance with the objectives of the Council's enforcement Charter and wider statutory planning policy / guidance. In certain cases formal enforcement action is required in order to resolve the breach. Such cases are highlighted in the table, excluding those cases where delegated powers for action exist. It is noted that many of the breaches relate to signage and relatively minor alterations to property frontages, but which do have an impact on visual amenity. No unauthorised changes of use of premises have been identified.

5.7 Although some breaches have been resolved through negotiation and discussion, without recourse to formal enforcement action, there are a number of instances, particularly relating to signage, where negotiation has not proven successful. In two cases, and despite repeated warnings and the serving of enforcement notices, breaches have remained unresolved, and direct action by the Council is now considered necessary to resolve the breach (by removal of unauthorised signage). In other cases, the submission of retrospective applications is likely to resolve the breach.

5.8 It is recommended that the necessary enforcement action, including, if necessary, authority to undertake direct action and recoup costs incurred by the Council in resolution of the relevant breaches identified in the attached table, be instructed.

6. IMPACT

Improving Customer Experience –

Undertaking effective enforcement action as recommended should serve to improve the environment and amenity value of Union Street, thereby improving its attractiveness to the public.

Improving Staff Experience –

Undertaking enforcement action will enable development of relevant skills of staff members within the planning service.

Improving our use of Resources –

No significant improvement in the Council's use of resources is anticipated as a result of this report. However, considering the appropriateness and expediency of individual enforcement action in a co-ordinated manner for the whole of the street is considered to reduce the risk of challenge of appeal on grounds of unreasonableness and so minimises potentially abortive work and associated staff costs.

Corporate -

The enforcement of planning control links to the Council's core value that "Aberdeen City Council will strive to enhance the high quality of life within the City" and corporate objectives that "Aberdeen City Council will continually review, update and enforce the Aberdeen Local Plan in order to maintain the balance between development pressures and the need to conserve and enhance the City's natural environment." The report relates to the Single Outcome Agreement 12 "we value and enjoy our built and natural environment and protect it and enhance it for future generations." No joint working is anticipated as a result of this report.

Public –

The Corporate Best Practice Guide on Human Rights and Equalities will be adhered to when deemed necessary to take enforcement action. There is no requirement for Equalities or Human Rights Impact Assessment in this case.

7. MANAGEMENT OF RISK

Considering the appropriateness and expediency of individual enforcement action in a co-ordinated manner for the whole of the street is considered to reduce the risk of challenge of appeal on grounds of unreasonableness and so minimises potentially abortive work and associated staff costs. Undertaking effective enforcement should enhance the environment and enhance the Council's reputation.

8. BACKGROUND PAPERS

Relevant planning guidance and documents of note in preparation of this report is listed below:-

Historic Environment Scotland Managing Change Guidance – Shopfronts and Signs (2010):-

<http://www.historic-scotland.gov.uk/shopfronts-2.pdf>

Union Street Conservation Area Appraisal (2007):-

http://www.aberdeencity.gov.uk/planning_environment/planning/conservation/pla_conservation_area_02.asp

City Centre Masterplan (2015) :-

http://www.aberdeencity.gov.uk/Council_government/shaping_aberdeen/City_Centre_Masterplan.asp

Supplementary Guidance: City Centre development Framework (2012):-

<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=31760&slD=14394>

Supplementary Guidance: Union Street Frontages (2012):-

<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=31768&slD=14394>

Supplementary Guidance: Shopfronts and Advertisements Design Guidelines (2012):-

<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=31762&slD=14394>

Supplementary Guidance: Shopfront Security (2012) :-

<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=31764&slD=14394>

Relevant appeal decisions / letters of relevance are available at the following weblinks :-

33 Union Street (Amplifon) – Advertisement Enforcement Notice – Appeal dismissed -28/04/15 :-

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=115632>

333 Union Street (Soul) – Retrospective Advertisement Consent Appeal – Appeal Sustained – 19/1/16:-

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=117063>

420-424 Union Street (Aberdein Considine) – Retrospective Advertisement Consent Appeal – Appeal Dismissed – 31/7/15:-

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=115817>

172 Union Street (Flight Centre) – Retrospective Advertisement Consent Appeal – Appeal Sustained – 20/08/14

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=115126>

The Council's Planning Enforcement Charter, which helps to explain the role of the planning enforcement team to the public, as well as setting priorities in terms of delivery of the planning enforcement service is published on the Council's website at the following address:-

http://www.aberdeencity.gov.uk/web/files/sl_Planning/plan_enforce_charter.pdf

9. REPORT AUTHOR DETAILS

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