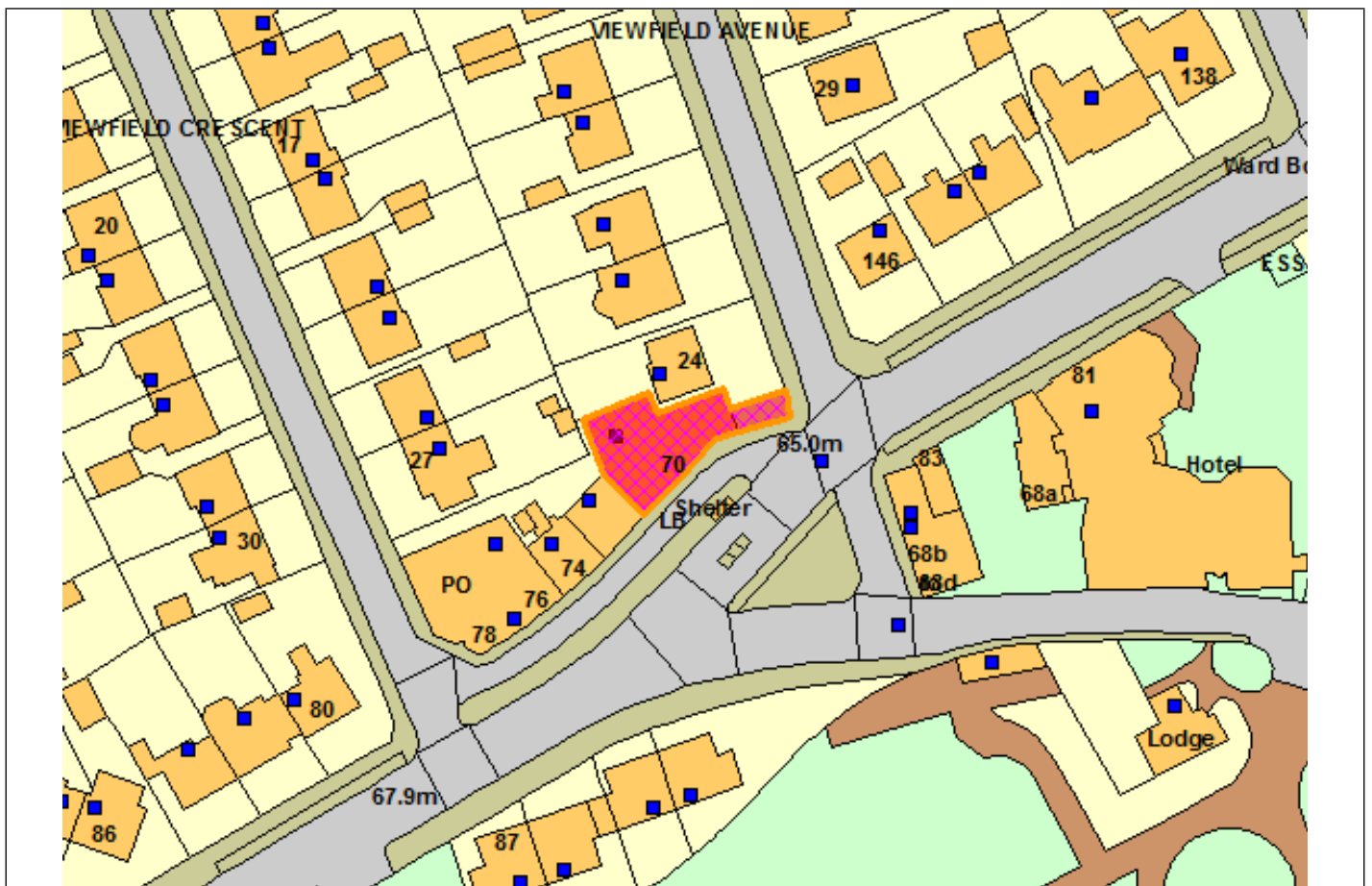


Site Address:	70 Countesswells Road, Aberdeen, AB15 7YJ.
Application Description:	Change of Use from Class 1 (Shops) to Class 3 (Food and Drink) including installation of door on eastern elevation
Application Reference:	171336/DPP
Application Type	Detailed Planning Permission
Application Date:	6 November 2017
Applicant:	Figment Ltd
Ward:	Hazlehead/Ashley/Queens Cross
Community Council	Craigiebuckler And Seafield
Case Officer:	Gavin Clark



© Crown Copyright. Aberdeen City Council. Licence Number: 100023401 - 2017

RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site is presently vacant, with its most recent use being as a mini supermarket (Class 1). The property is located on the northern side of Countesswells Road, at its junction with Viewfield Avenue and Seafield Road and is located within a group of 4 other units, which contains two shops, a hot-food takeaway and hairdressers, with the surrounding area being predominantly residential in nature. A small area of open space lies to the south-east of the site, next to which is another group of commercial units and beyond that the Palm Court Hotel.

Relevant Planning History

Planning permission (Ref: P130711) was approved by the Planning Development Management Committee on the 26th September 2013 for the installation of a new entrance with associated shop front alterations and new roof mounted roof refrigeration equipment. This consent was implemented. An associated application for advertisement consent (Ref: P131199) for the installation of illuminated and non-illuminated signs was approved on the 9th October 2013.

Planning permission (Ref: 92/2108) was approved in January 1994 for a change of use of supermarket to licenced restaurant, including alterations to form a new doorway.

An application for planning permission (Ref: 180034/DPP) is currently pending consideration on a site to the south-east (68D Countesswells Road) for a change of use from class 1 (shops) to mixed use class 1 and class 3 (food and drink). This application is to be determined under delegated powers.

APPLICATION DESCRIPTION

Description of Proposal

A change of use from Class 1 (Retail) to Class 3 (Food and Drink) for use as a coffee shop/roastery; the proposal also includes the installation of an access door on the eastern elevation to allow for access to the "seasonal servery area".

The application has been amended since the original submission; with the outdoor seating area to the east of the site removed.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OYZZ9OBZGXQ00>

Supporting Statement: Figment: November 2017: provides a background to the proposed development, and an assessment against relevant planning policy.

Marketing Statement: Ryden: November 2017: confirmed that the site has been fully marketed since early November 2014 with limited interest for retail use. Over this period the marketing agent also targeted occupiers locally and nationally for retail and other uses.

Noise and Odour Impact Assessment: Grosle Environmental Services: February 2018: this report highlighted a number of recommendations in order to mitigate noise and odour nuisance from the proposed premises.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because there have been more than 5 timeous letters of objection. The proposal therefore falls out with the Council's Scheme of Delegation.

CONSULTATIONS

ACC - Roads Development Management Team – have raised no objection to the proposed development. Compared to its existing use as a retail outlet, the proposal would require approximately three times more in terms of parking provision (21 spaces compared to 8.4). It is noted that none of the shops in the retail parade have parking, so the proposal is not unusual in this regard. Roads Development Management consider the location of refuse storage (to the western elevation) to be acceptable; and are also content with the proposed level of delivery (once, six days per week). They also acknowledged that the outdoor seating area has been removed from the proposal.

ACC - Environmental Health – initially requested the submission of a Noise Impact Assessment, which was submitted in February 2018. The noise assessment was subsequently reviewed and was considered to be reasonable. They have, however, requested the insertion of a condition ensuring that associated noise mitigation measures are met, in the interests of residential amenity.

An odour impact assessment was also submitted, which was also considered to be acceptable. A further condition has been requested to ensure odour mitigation measures are carried out in accordance with the recommendations of the aforementioned report.

Craigiebuckler and Seafield Community Council – have no objection to the proposed development; noting that there is a need in the area for the type of service the applicant proposes, the development would be a welcome addition to a vacant premises and that the proposed business would cater for customers who have been shopping in the neighbouring retail outlets and would be an attraction that would increase footfall.

REPRESENTATIONS

Twenty-three letters of representation have been received (Twenty letters of objection; three letters of support). The matters raised relate to the following:

Objection Comments:

- The proposal could result in anti-social behaviour and littering; something which should be adequately controlled;
- Traffic and parking problems, which presently exist and which will be exacerbated by the proposed change of use;
- Concerns are highlighted with regards to the outdoor seating area, and the impact this would have on surrounding residential amenity; concerns were also raised that the loss of the parking space for the outdoor seating area would adversely impact on refuse collection and deliveries, impact on users of the footway and neighbouring bus stops;
- Concerns that the proposal would be used as a hot-food takeaway;
- The habits of users of a coffee shop are different to that of retail facilities, which could result in people parking for a considerably longer period of time;
- There is an overprovision of similar facilities in the surrounding area;
- The impact that the proposal is located within a residential area and would have an adverse impact on surrounding residential amenity;
- A similar proposal has been rejected on site previously;
- Concerns raised with regards to cooking odours, smells and noise associated with the café;

- The external area and seasonal servery is accessed via steps only, which would contravene the Equalities Act and Building Regulations.

Supporting Comments:

- There are a lack of similar facilities in the surrounding area; and the proposed use would complement and not compromise other facilities and businesses

Non-Material Planning Matters

- A number of concerns were raised with regards to the granting of a late licence; this is not something that would be controlled by the Planning Service and has therefore not been discussed elsewhere within this report.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 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.

Aberdeen Local Development Plan (ALDP)

- Policy D1: Quality Placemaking by Design;
- Policy NC6: Town, District and Neighbourhood Centres;
- Policy T2: Managing the Transport Impact of New Development;
- Policy T4: Air Quality;
- Policy T5: Noise; and
- Policy R6: Waste Management Requirements for New Development.

Supplementary Guidance

- Hierarchy of Centres;
- Harmony of Uses;
- Transport and Accessibility;
- Air Quality and
- Noise

EVALUATION

Principle of Development

Policy NC6: Town, District and Neighbourhood Centres of the ALDP states that retail is the preferred use within these designated centres, however a mix of uses is desirable. Proposals for changes of use from retail to non-retail uses in said centres will only be allowed if they meet all of the following criteria:

- The proposed alternative use makes a positive contribution to the vitality and viability of the centre;
- The proposed alternative use would not undermine the principal function of the centre in which it is located;
- The applicants can demonstrate a lack of demand for continued retail use of the premises;
- The proposed use caters for a local need;
- The proposed use retains or creates a live and attractive frontage;

- The new use does not create clustering of a particular use in the immediate vicinity which would undermine the character or amenity of the centre or the well-being of the community; and
- The proposed use does not conflict with the amenity of the neighbouring area.

In terms of the first point above, the unit has been vacant for a number of years and it could be argued that the proposed use, as a café, would add to the vitality and viability of the neighbourhood centre. There are presently a variety of uses within the neighbourhood centre, including a mini-supermarket, hot-food takeaway, pet shop and hairdressers, which are located in the immediate vicinity, but also includes the units adjacent to the triangular area of open space on the opposite site of the road and the Palm Court Hotel. It is therefore not considered that the proposed use would undermine the principle function of the retail centre. The applicants, through the submission of a Marketing Statement have also shown that there is a lack of demand for continued retail use of the premises; with the property having been vacant for approximately 3 years. The proposal would also cater for a local need and would create a live and active frontage. Whilst it is noted that the Palm Court Hotel provides a similar function; and an application is currently pending for a similar use on a site adjacent; it is not considered that the proposal would cause a cluster of a particular use in the immediate vicinity and in turn the proposal would not undermine the character or amenity of the centre, or the well-being of the surrounding community. The principle of development can therefore be supported, and the proposal is considered to accord with Policy NC6: Town, District and Neighbourhood Centres of the ALDP and the associated Supplementary Guidance: Hierarchy of Centres.

The Harmony of Uses Supplementary Guidance provides guidance on over-concentration, protection of residential amenity, waste and litter, odours and cooking smells and road safety issues. These matters have been addressed elsewhere within this report, and it is concluded that the proposal meets all of the aforementioned points and therefore complies with said guidance.

Layout, Siting and Design

The proposed external alterations are minor in nature, and relate to the installation of an access door on the eastern elevation of the property to allow access to the seasonal server area. Whilst no details of materials have been included, this matter can be controlled via an appropriately worded planning condition, and as a result the proposal would accord with Policy D1 (Quality Placemaking by Design) of the ALDP.

Transportation/ Waste Management

The proposal has been assessed by officers in the Roads Development Management Team, who have raised no objection to the proposed development. The proposal is located in the outer city, out with any controlled parking zones. The site currently has no parking, and no parking spaces are proposed.

There is an acknowledgement that the long opening hours (7:30am to 7:30pm – 7 days a week) would mean that the site could conflict with the nearby streets during peak usage hours and this, coupled with the lack of a controlled parking zone (CPZ) would mean that there would be a chance of indiscriminate parking taking place on neighbouring streets. Additionally, compared to its existing authorised use as a retail outlet (which requires a maximum of 1 parking space per 30 sqm), cafes require a maximum of 1 parking space per 12 sqm (i.e. 21 spaces based on a floor area of approximately 252 sqm – this is compared to 9 spaces for retail use). As such, it is acknowledged that the proposed use may result in parking on streets in the surrounding area at certain peak times, in turn potentially having some impact on surrounding residential amenity. Nonetheless, it is not considered that this impact would be to such an extent that would warrant refusal of planning permission; and the lack of parking facilities is considered to be acceptable in this instance. Therefore, whilst the proposal fails to comply with the Transport and Accessibility

Supplementary Guidance (as no parking would be provided), the proposal is considered to be acceptable in this instance.

The applicants have also confirmed that there will be deliveries six days a week, which would occur once a day during opening hours. This is acceptable and would not be dissimilar to the arrangement of the consented use. There is a slip road adjacent to the shops entrance, which should ensure that deliveries would not take place from the main road. Roads Development Management has no concerns with the proposed development in this regard.

In terms of waste provision, the proposal would utilise existing waste facilities located to the side of the existing units, and which are utilised by the units in the surrounding area. All waste would be collected on a weekly basis; which is considered acceptable. The proposal is therefore considered to be in accordance with Policy R6: Waste Management Requirements for New Development of the ALDP. Provision of said facilities would be controlled via an appropriately worded planning condition. A litter management plan will also be requested, and this matter will be controlled via an appropriately worded planning condition.

Noise/ Odour/ Ventilation

The applicants have submitted a Noise and Odour Impact Assessment Report in support of the application, following a request from Environmental Health. This report provided a summary of the proposal and considered noise; providing guidance on the extraction system and indicated that the noise levels at the nearest residential home would be below the required criteria of 35dBA. The extraction system would not operate after 22:00 hours (the supporting statement indicates proposed opening hours of 7:30am – 7:30pm, with a potential to extend to 10pm as a licensed premises) therefore no night time comparisons were provided. Odour levels were also considered by Environmental Health, who were content with the findings of the Report; which indicated that there would be no adverse impact on residential amenity. The recommendations of the Report will be controlled via an appropriately worded planning condition. Environmental Health has raised no objection to the proposal subject to the above. It is therefore considered that the proposal would accord with Policies T4: Air Quality and T5: Noise of the ALDP as well as the associated Supplementary Guidance relating to Air Quality and Noise.

Matters Raised in Letters of Representation

Objection Comments:

- *The proposal could result in littering; something which should be adequately controlled.*
Response: an appropriate condition can be added on to the consent, requiring the submission of a Litter Plan;
- *The habits of users of a coffee shop are different to that of retail facilities, which could result in people parking for a considerably longer period of time; traffic and parking problems, which presently exist and which will be exacerbated by the proposed change of use.*
Response: This matter has been discussed above in the section marked "Transportation / Waste Management"
- *Concerns are highlighted with regards to the outdoor seating area, and the impact this would have on surrounding residential amenity; concerns were also raised that the loss of the parking space for the outdoor seating area would adversely impact on refuse collection and deliveries, impact on users of the footway and neighbouring bus stops.* Response: this element of the proposal has been removed from the development.
- *Concerns that the proposal would be used as a hot-food takeaway.* Response: a separate planning application would be required to operate the premises as a hot-food takeaway.

- *The impact that the proposal is located within a residential area and would have an adverse impact on surrounding residential amenity.* Response: the applicants have adequately demonstrated that the proposal would not have an adverse impact on residential amenity through removal of the outdoor seating area and the submission of a Noise and Odour Impact Assessment Report, the findings of which, including the implementation of appropriate mitigation measures would be controlled via condition to ensure that an appropriate level of residential amenity would be maintained. The potential impact on residential amenity in terms of parking has also been discussed previously, and this impact is not considered to be to such an extent that would warrant refusal of planning permission.
- *A similar proposal has been rejected on site previously.* Response: the planning authority has no record of an application for Class 3 use being refused on site. Planning permission was approved in January 1994 for a change of use of supermarket to licenced restaurant, including alterations to form a new doorway. From record, this does not appear to have been implemented.
- *Concerns raised with regards to cooking odours, smells and noise associated with the café.* Response: the applicants have submitted a Noise and Odour Impact Assessment, which states that the proposal would have an acceptable impact on the character and appearance of the surrounding area; the findings of this report will be controlled via an appropriately worded planning condition.
- *The external area and seasonal servery is accessed via steps only, which would contravene the Equalities Act and Building Regulations.* Response: it is not considered that the proposal would have an equalities impact given that access could be taken from Countesswells Road. Building Standards have therefore confirmed that the proposed layout and access arrangements are acceptable in principle. Any matters relating to buildings regulations would be covered by any application for a building warrant.

Supporting Comments:

- *There is a lack of similar facilities in the surrounding area; and the proposed use would complement and not compromise other facilities and businesses.* Response: comments are noted

Non-Material Planning Considerations

- Comments in relation to anti-social behaviour are not a material planning consideration; and would be a matter for Police Scotland.
- There is an overprovision of similar facilities in the surrounding area is not considered to be material in this instance. It could be considered material, if the impact on clustering/ over-provision resulted in an adverse impact on residential amenity.

Equalities Impact Assessment

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics. In coming to this assessment the Planning Authority has had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Summary

The proposal is considered to comply with all relevant policies of the Aberdeen Local Development Plan and its associated Supplementary Guidance; in this instance there are no material planning

considerations, including matters raised in letters of representation; which would warrant refusal of consent in this instance. The proposal is therefore recommended for conditional approval for the reason below.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The principle of a café at this location is considered to be acceptable, as the proposal meets all of the criteria set in Policy NC6: Town, District and Neighbourhood Centres. The proposal involves some minor alterations to the building; no road safety concerns have been raised and all environmental concerns have been resolved and can be controlled via an appropriately worded planning condition. All other technical matters have been resolved. The proposal is therefore considered to comply with Policies D1: Quality Placemaking by Design; T2: Managing the Transport Impact of New Development; T4: Air Quality; T5: Noise; and R6: Waste Management Requirements for New Development of the Aberdeen Local Development Plan and the associated Supplementary Guidance in relation to Hierarchy of Centres; Harmony of Uses; Air Quality and Noise. Whilst there is a conflict with the Transport and Accessibility Supplementary Guidance material considerations allow a departure from this element of guidance in this instance. There are no material planning considerations, including the issues raised in letters of representation, that would warrant refusal of planning permission in this instance.

CONDITIONS

Litter management plan

No works in connection with the development hereby approved shall commence unless a litter collection policy and plan for the development has been submitted to and approved in writing by the planning authority. All the measures identified in the approved policy and plan shall be in place and fully operational before the premises are open to members of the public. Thereafter, the premises shall not operate other than in complete accordance with the approved litter collection policy and plan.

Reason: In the interests of the amenities of the surrounding area.

Details or sample of materials required

No works in connection with the development hereby approved shall commence unless details and colour of the new door on the eastern elevation have been submitted to and approved in writing by the planning authority. The development shall not be brought into use unless the external finish has been applied in accordance with the approved details.

Reason: In the interests of the appearance of the development and the visual amenities of the area.

Noise/ Odour Assessment

The use hereby approved shall not be brought into use unless the mitigation measures as highlighted in the Noise and Odour Impact Assessment (Grosle Environmental Services) are implemented in their entirety. Confirmation of the installation of these measures shall be submitted to, and approved in writing by the Planning Authority, in consultation with Environmental Health, before the premises is occupied for its intended use.

Reason: to ensure that an adequate level of residential amenity can be maintained.

Outdoor Seating

The external area to the east of the building (and as shown on Drawing No: 309(GA) 002 REV B) shall not be used as an outdoor seating area, and shall be retained as an area of hardstanding in perpetuity.

Reason: to ensure an appropriate level of residential amenity is retained.