

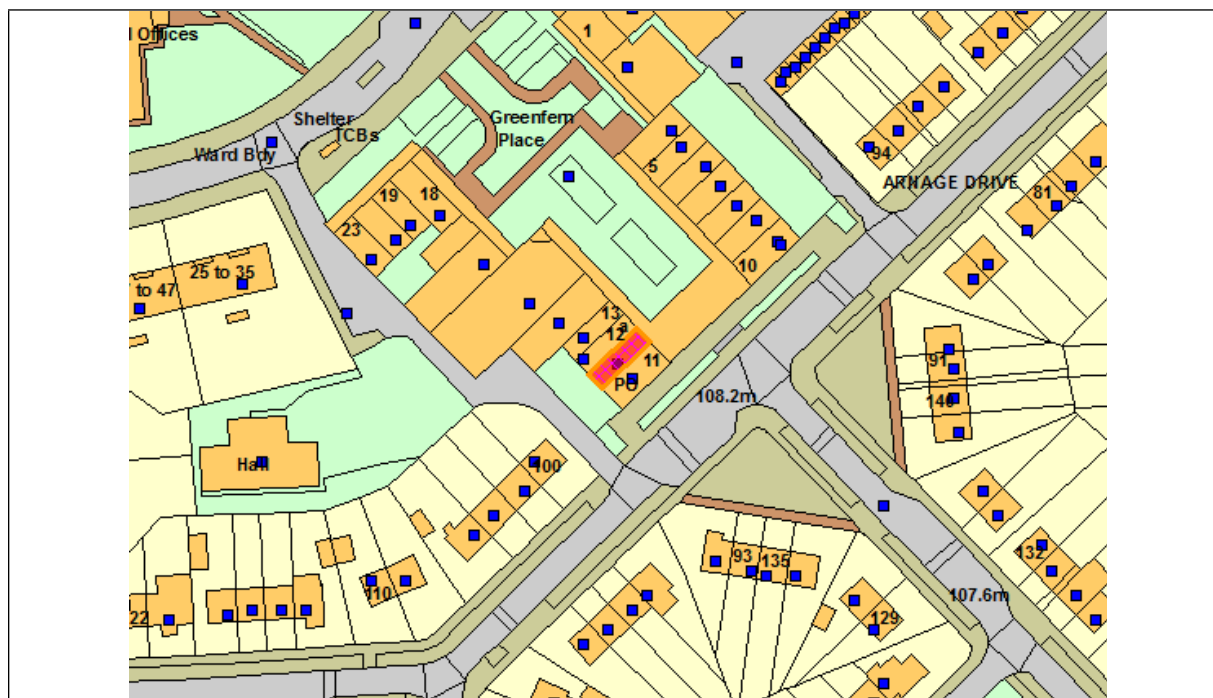


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 26th April 2018

Site Address:	Unit 12 , Mastrick Shopping Centre, Greenfern Road, Aberdeen AB16 6PY
Application Description:	Change of use from class 1 (shops) to sui generis (hot food take-away)
Application Reference:	171333/DPP
Application Type	Detailed Planning Permission
Application Date:	7 November 2017
Applicant:	Mr Kamel Ouarab
Ward:	Kingswells/Sheddocksley/Summerhill
Community Council	Mastrick, Shedocksley And Summerhill
Case Officer:	Jamie Leadbeater



RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

A vacant class 1 (shop) unit in Mastrick Shopping Centre, which is itself situated between Arnage Drive and Greenfern Road. The shopping centre, a designated 'neighbourhood centre' on the ALDP Proposals Map 2017, comprises commercial units of varying sizes which contain a mix of: Class 1 (Shops), 2 (Financial, Professional and other services), 3 (Food and Drink) and Sui Generis (such as hot food takeaway) uses. The nearest residential property is located c.17m to the south-west of the application unit.

Relevant Planning History

Application Number	Proposal	Decision Date
131843	Change of Use from Class 1 (Shops) to Class 2 (Financial & Professional Services), 15 Greenfern Road	Approved - Feb 2014.
120454	Change of Use from Class 1 (Shops) To dental surgery (Class 2), Unit 6 Mastrick Shopping Centre	Approved - June 2012
101422	Change of Use from Class 1 (Shops) To Class 2 (Financial & Professional Services), Unit 4 Mastrick Shopping Centre.	Approved - Nov. 2012
850572	Conversion (change of use) for use as a post office 11 Greenfern Road	Approved - April 1985

APPLICATION DESCRIPTION

Description of Proposal

Change of use from Class 1 (Retail) to Hot Food Takeaway (Sui Generis).

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=OYUKDBBZGWF00> .

- Local Extract Ventilation (LEV) equipment specification;

- Noise Impact Assessment
- Supporting marketing letter

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because both: five objections have been received; and the local community council has objected, and the application is recommended for approval.

CONSULTATIONS

Environmental Health – No objection - satisfied that the proposed LEV (Local Extract Ventilation) system would provide suitable odour control to protect the amenity of the nearest residents and businesses. In addition, the associated Noise Impact Assessment (NIA) is considered reasonable.

Mastrick, Sheddocksley & Summerhill Community Council – Object. Do not welcome a further Hot Food Takeaway as there are 4 of these open during evenings and another 3 during the day.

REPRESENTATIONS

The five objections raise the following material planning considerations:

- Enough takeaways already in the shopping centre;
- The shopping centre would be better served by the unit remaining as a Class 1 shop,
- Loss of amenity within the shopping centre, given it would reduce availability for a more varied shopping experience;
- Smells and fumes would permeate from the premises;
- Opening of a further takeaway will undoubtedly generate frequent vehicle and pedestrian movements;

Issues raised which are not material planning considerations are:

- There are already different types of takeaways and food shops in the area serving different types of food;
- Likelihood of littering from customers is highly probable within public areas;
- Impact of Tesco (on the Lang Stracht) on the viability of premises within the shopping centre.

PLANNING POLICY FRAMEWORK

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.

National Policy and Guidance

- Scottish Planning Policy

Aberdeen Local Development Plan (2017)

- Policy NC6: Town, District, Neighbourhood and Commercial Centres
- Policy T5: Noise

Supplementary Guidance and Technical Advice Notes

- Hierarchy of Centres (Supplementary Guidance)
- Noise (Supplementary Guidance)

EVALUATION

Change of Use

Policy NC6 in the ALDP makes provision for change-of-use from retail providing it meets all of the following criteria:

- The proposed use makes a positive contribution to the vitality and viability of the centre;
- The proposed use will not undermine the principal function of the centre;
- The applicant can demonstrate a lack of demand for the continued retail use of the premises;
- The proposed use caters for a local need;
- The proposed use retains and creates a live and attractive shop frontage;
- The proposed use does not create clustering of a particular use in the immediate vicinity;
- The proposed use does not conflict with the amenity of the surrounding area.

In response to the criteria, the following assessment is made:

- The proposed use would make a positive contribution to the local neighbourhood centre's (as defined in the Hierarchy of Developments SG) vitality and viability on the basis that the unit has been vacant for a period time and the proposed use is likely to broaden the commercial offering within the neighbourhood centre;
- Should this application be approved: 12 shop (Class 1) units would remain in operation (a further additional unit is also vacant); 3 units in Class 2 use; and 7 units which fall within undefined use classes (Sui Generis), including a public house, 2 bookmakers and 4 hot food takeaways – a mix of uses which is supported by SPP for town and local centres Considering this it is clear that Class 1 use would remain dominant and therefore it is not considered the principle retail function of the shopping centre would be compromised;
- The applicant has submitted detailed marketing evidence confirming the premises has been marketed for retail use since 30th November 2016, with no interest coming forward for Class 1 use. Moreover, it should be noted that this

proposal is consistent with the recent planning history of the shopping centre which demonstrates a trend moving away from Class 1 retail;

- The local community council have objected, stating that there at present 4 hot food takeaways open during evenings and 3 during the day. Whilst this may be the case, this does not necessarily indicate that there is no defined 'local need' for the proposed use, as the success and commercial offering of each of these businesses is dictated by the consumer market which falls outwith the control of the Planning Service;
- At present, the shopfront is masked by a permanently closed roller shutter (reflecting its lack of occupation), and approval of this proposal would see a use recommence and the shutters opened during operational periods - creating a live frontage;
- At present, hot food takeaway outlets are dispersed throughout the shopping centre, like other non-retail uses which contribute to the vitality and viability of the centre. Should this application be approved, it is not considered it would fundamentally alter this arrangement. To this end, it is not considered the proposed would not create an undue level of clustering of Hot Food Takeaways in Mastrick, and as such would not undermine the character and amenity of the centre;
- The submitted noise and odour control information has been reviewed by the Council's Environmental Health Service and they are content the proposal would not have an unacceptable impact on the general amenity of neighbouring residents or businesses through odours and ventilation equipment noise. It would, however, be necessary to condition implementation of the Local Extract Ventilation (LEV) system prior to the use coming into operation.

Overall, it is considered the proposed use would align with the requirements of Policy NC6 and therefore the principle of development is considered acceptable. Furthermore, it should be noted that the proposal would comply with the relevant expectations of Policy T5 and its associated SG in respect of noise.

Other matters raised in representations

- *The shopping centre would be better served by the unit remaining as a Class 1 shop* - Each proposal is required to be considered on its own merits. Moreover, as highlighted in the above discussion, a marketing campaign has not demonstrated any interest from retail occupiers;
- *Opening of a further takeaway will undoubtedly generate frequent vehicle and pedestrian movements* – The site is easily accessible by foot, bicycle, bus and the shopping centre is well served by dedicated car parking and servicing bays to the rear of units. To this end, it is clear the shopping centre is already designed to address such impacts. Furthermore, it should be noted that an increase in pedestrian and vehicle movements would enhance the vitality and viability of the centre to local the benefit of local businesses.

Conclusion

In conclusion, the proposal is considered an acceptable use in line with all relevant ALDP policies and associated supplementary guidance. In the absence of any overriding other material considerations, the application is recommended for approval.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposed use would not undermine the primary retail function of Mastrick Shopping Centre and would make a positive contribution to vitality and viability of the neighbourhood centre, whilst not posing an undue amenity impact to neighbouring residential and commercial properties. As such, the proposal is considered compliant with Policy NC6: Town, District, Neighbourhood and Commercial Centres; and Policy T5: Noise in the Aberdeen Local Development Plan 2017 and the supplementary guidance on noise. Furthermore, the proposed use would result in a continued mix of local centre use as supported by SPP. The proposal is therefore considered acceptable.

CONDITIONS

- 1) Prior to the use coming into operation, the Local Extract Ventilation (LEV) system as specified in the submitted Noise Impact Assessment (prepared by Bureau Veritas, 20/03/2018) shall be installed and remain operational for the lifetime of the use.

Reason: In the interests of protecting local residents and businesses general amenity.

ADVISORY NOTES FOR APPLICANT

- 1) Should the applicant/developer wish to affix any new signage to the application property, it is recommended they check with the Planning Service before undertaking any works to check if Express Advertisement Consent will be needed. The Planning Service is contactable on 01224 523470 or at pi@aberdeencity.gov.uk