

Report

Report to:	Planning Committee
Date of Meeting:	5 December 2006
Report by:	Executive Director (Enterprise Resources)

Application No	HM/06/0670
Planning Proposal:	Change of Use of Vacant Premises (Previous Class 1 Use) to Class 2 Estate Agent

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Allen & Harris Estate Agents
- Location : 71/73 Cadzow Street
Hamilton

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant Detailed Planning Permission (Subject to Conditions – Based on Conditions Listed)

2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application.

3 Other Information

- ◆ Applicant's Agent: McInally Associates Limited
- ◆ Council Area/Ward: 37 Hamilton Centre/North
- ◆ Policy Reference(s): **Hamilton District Local Plan**
Policy ED14 – Hamilton town Centre – Primary Shopping Area
Policy ED29 – Primary Shopping Frontage
Policy EN4 – Conservation Areas
Policy DC1 – Development Control - General
Finalised South Lanarkshire Local Plan
Policy COM1 – Town Centres
Policy COM2 – Core Retail Areas
Policy ENV4 – Conservation Areas
Policy DM1 – Development Management

- ◆ Representation(s):

▶ 0 Objection Letters

◆ Consultation(s):

Roads and Transportation Services (Hamilton Area)

Planning Application Report

1 Application Site

- 1.1 The application site relates to a presently vacant ground floor retail unit located in an unlisted tenement building within Hamilton Conservation Area on Cadzow Street within Hamilton Town Centre. The unit is situated between a branch of Clydesdale Bank and a music store and was itself previously a pet store before lying vacant for a period of time. Flatted properties are located on the upper floors of the property.

2 Proposal(s)

- 2.1 This planning application relates to the proposed change of use of the vacant retail unit (Class 1) as identified in the 1997 Use Classes (Scotland) Order to form an estate agent (Class 2). The application relates solely to the change of use of the unit and does not involve any internal or external alterations.

3 Background

3.1 Local Plan Status

- 3.1.1 The application site is affected by Policy ED14 – Hamilton Town Centre Area – Primary Shopping Frontage – as identified within the adopted Hamilton District Local Plan. This policy states that the Council will generally oppose the loss of Class 1 retail uses, unless the proposed use can be identified as complementary to the shopping function and is acceptable in terms of the following criteria – location; does not cause detriment to the primary retailing function; has no adverse effect on the character and amenity of the area. In pursuing the policy, the Council will seek to apply Policy ED29 – Primary Shopping Frontage – which demands retail presence does not fall below level of 75% and does not permit the presence of two adjoining non-retail uses. Policy EN4 – Conservation Areas – also applies. This policy states that the Council will protect and enhance the built environment through control of development within designated conservation areas.
- 3.1.2 In terms of the Finalised South Lanarkshire Local Plan, the application site is affected by Policy COM1 – Town Centres. This policy states that within town centres the Council will allow a mixture of uses compatible with their role as a commercial and community focal point. Examples of compatible uses are shops, offices, housing, pubs and restaurants, leisure facilities and community, health and social facilities. Policy COM2 – Core Retail Areas – also applies and identifies the application site as lying in such an area. Proposals that involve the representation of retail uses within any one block falling below 75% will not be supported and no more than two neighbouring properties will be permitted to be put to non-retail use. The site is further identified as a conservation area in the Finalised local plan, being affected by Policy ENV4. Policies DC1 and DM1 of the adopted and Finalised local plans respectively should also be referred to. These policies state that development should take cognisance of surrounding built form.

3.2 Relevant Government Advice

- 3.2.1 There is no government advice relevant to this application.

3.3 Site History

- 3.3.1 There are no planning applications on site relevant to this application.

4 Consultation(s)

- 4.1 **Roads and Transportation Service** – Raise no objections to the proposals and raise the points that there is no parking provision for the proposed unit but public parking facilities are available close by. The applicant would not be entitled to free parking permits within the town centre. The applicant should further be made aware that there are waiting restrictions on Cadzow Street preventing them from parking outside the premises.

Response: Noted. The appropriate informatives shall be added to any consent granted.

5 Representation(s)

- 5.1 Statutory neighbour notification was undertaken and the application was advertised as Development Potentially Contrary to the Development Plan and in accordance with Article 12(5) relating to the Non-notification of Neighbours during which period no letters of representation have been received.

6 Assessment and Conclusions

- 6.1 This planning application relates to the change of use of an existing vacant retail unit in Hamilton Town Centre from retail (Class 1) to estate agent (Class 2). The main determining factors in assessing the planning application relate to its ability to comply with relevant local plan policy as well as its impact upon the character and amenity of the surrounding area.
- 6.2 In terms of the adopted Hamilton District Local Plan the application site is affected by Policy ED14 which states that the Council will generally oppose the loss of Class 1 retail uses, unless the proposed use can be identified as complementary to the shopping function and is acceptable in a number of criteria detailed in paragraph 3.1 above. It is considered that the proposed change of use will not significantly affect the retail element within the surrounding area and will not result in any loss of amenity within the immediate vicinity.
- 6.3 Policy ED29 – Primary Shopping Frontage – states that within primary shopping areas the Council will seek to maintain a 75%:25% ratio of retail to non-retail uses in shopping streets and will not permit two adjoining frontages to be put to non-retail use. It should be noted that following the change of use the retail representation of premises within the vicinity would stand at approximately 30%. As this is significantly lower than the 75% retail ratio that is required at this location in terms of the above policy the application has been advertised as Development Potentially Contrary to the Development Plan. It should further be noted that the application would result in two adjoining frontages being put to a non-retail use as the adjacent bank is also a Class 2 use. In support of the application in terms of the above policies, however, the applicant has provided a detailed statement of justification including a section noting that the unit has been marketed unsuccessfully for a Class 1 use during which time an exceptionally low level of interest was expressed. It is suggested by the supporting statement that the proposed change of use adds to the viability and vitality of the shopping area and that the market would not support a retail unit at this location given the low level of interest expressed in the marketing of the site.

- 6.4 In terms of the content of the Finalised South Lanarkshire Local Plan, the application site is affected by Policy COM1 – Town Centre Land Use. This policy states that within town centres the Council will allow a mixture of uses compatible with their role as a commercial and community focal point. Examples of compatible uses are shops, offices, housing, pubs and restaurants, leisure facilities and community, health and social facilities. It is considered that the proposed use is compatible with those identified in the above policy. Policy COM2 – Core Retail Areas – as contained within the Finalised South Lanarkshire Local Plan also identifies the application site as being affected by this policy. This policy also requires the representation of retail units in such locations to not stand below 75% in one continuous block and does not permit more than two neighbouring properties to fall out of retail use. As noted above the ratio of retail to non-retail uses is below the threshold identified in this policy. It is considered that the justification provided by the applicant addresses this issue and that the change of use of the unit is required in order to maintain the vitality of the town centre. It is further noted that the application would not result in the formation of more than two adjoining non-retail uses which would comply with Policy COM2 above.
- 6.5 The application site is identified as being located within a Conservation Area in both the adopted Hamilton District Local Plan and the Finalised South Lanarkshire Local Plan. It is not considered, however, that the proposed development will impact upon the character of the conservation area. The matter of the shop frontage of the unit will be considered under separate cover pending approval of this current application and the shop front must comply with the terms of the Council's Shop Front Design Guide.
- 6.6 Policy DC1 and DM1 of the adopted and Finalised local plans respectively should also be taken into consideration. It is considered that the proposed development will not conflict with the above policies and that any application for the formation of a shop front of the unit, should permission be granted for the change of use, will be considered in terms of impact upon the streetscape.
- 6.7 Statutory neighbour notification was undertaken and the application was advertised as Development Potentially Contrary to the Development Plan and for the Non-Notification of Neighbours during which period no letters of representation were received.
- 6.8 In terms of consultation responses, the Roads and Transportation Service have raised no objections to the proposals, but have advised that there are waiting restrictions within the area and that the applicant would not be entitled to parking permits. The appropriate informatives shall be added to any consent granted.
- 6.9 The proposal for the change of use of the unit to Class 2 from Class1 is contrary to the adopted Hamilton District Local Plan in that the proposals would result in the retail to non-retail ratio falling below the threshold required in Policy ED29. The proposals are also contrary to the terms of Policy COM2 of the Finalised South Lanarkshire Local Plan which contains similar provisions. I am of the view, however, that a departure from the development plan is justified in this case for the following reasons:
- (a) The unit has been unsuccessfully marketed for a Class 1 use and it would therefore appear that the market would not support a retail use at this location.

- (b) In terms of maintaining the viability and vitality of the town centre, it is the considered that the introduction of an estate agents (Class 2) would be preferable to a vacant unit.
- (c) The proposals raise no amenity or other policy issues.

7 Reasons for Decision

7.1 For the reasons set out in paragraph 6.9 above.

Iain Urquhart
Executive Director (Enterprise Resources)

16 November 2006

Previous References

- ◆ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
Roads and Transportation Service
- ▶ Representations
None

DATED 16/11/06

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Jamie McCracken, Planning Officer, Brandon Gate, Hamilton
Ext 3552 (Tel :01698 453552)
E-mail: Enterprise.hamilton@southlanarkshire.gov.uk

CONDITIONS

- 1 That the development hereby permitted shall be started within five years of the date of this permission.
- 2 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 3 That notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any such order revoking or re-enacting that order), the use of the unit hereby approved shall be restricted to use as an estate agent and for no other purpose within Class 2 as defined in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997, without the prior written consent of the Council as Planning Authority.
- 4 That the permission hereby granted relates to a change of use only and notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any other such order revoking or re-enacting that order) no alterations shall be made to the external appearance of the building without the prior written consent of the Council as Planning Authority.
- 5 That notwithstanding the provisions of the Town and Country Planning (Control of Advertisements)(Scotland) Regulations 1984, no fascia signs, adverts or projecting signs shall be erected on the premises without the prior written consent of the Council as Planning Authority.

REASONS

- 1 To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of amenity and in order to retain effective planning control.
- 3 In order to retain effective planning control
- 4 In order to retain effective planning control
- 5 To safeguard the amenity of the area.

For information only

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