

Report

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

Application No	HM/06/0711
Planning Proposal:	Change of Use from Class 1 Retail to Class 2 Mortgage Broker

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Mr McAlister
- Location : 49 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: Ian Reid
- ◆ 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):

Environmental Services

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 beside a public house. There is a further Class 2 office located above the property accessed via a close between the public house and the application site. The unit that forms the application site was previously a clothes 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 a mortgage broker (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 allowed to fall out of 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. It should be noted, however, that there is a similar application being considered at the present Planning Committee for the change of use of a premises at 71-74 Cadzow Street from Class 1 to Class 2.

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.

- 4.2 **Environmental Services** – have made recommendations on control of noise levels from the premises, and the assessment of asbestos within the building during construction.

Response: Noted. The appropriate conditions shall be attached 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 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 mortgage broker (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 a planning statement submitted in support of the application it has been stated that the unit has been marketed unsuccessfully with the only interest being the current proposal. It is argued by the planning statement that this part of the town centre is varied in terms of function and that the proposed use is acceptable in the context of the area.

- 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 result in the formation of 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 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. All servicing would be required to be taken from Campbell Street with no servicing from Cadzow Street. The appropriate informatives shall be added to any consent granted. Environmental Services have made certain recommendations on control of noise from the unit as well as a survey of asbestos detected within the premises during construction. The appropriate conditions shall be added to any consent issued.

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 considered that the introduction of a mortgage broker (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 given in paragraph 6.9 above.

Iain Urquhart
Executive Director (Enterprise Resources)

21 November 2006

Previous References

- ◆ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans

- ▶ Consultations
 - Environmental Services 24/10/2006
 - Roads and Transportation Service --/--/----

- ▶ Representations
 - None

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 mortgage broker 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.
- 6 Between the hours of 0800 and 2000 the measured noise level emitted from the premises (LAeq(1 hour)) shall not exceed the pre-existing background noise level (LA90(1/2 hour)) by more than 4dB(A) when measured in accordance with BS4142:1997 at buildings where people are likely to be affected. Between the hours of 2000 and 0800 the noise level emitted from the premises (LAeq(5 min)) shall not exceed the pre-existing background noise level (LAeq(1/2 hour)) by more than 4dB(A) when measured in accordance with BS4142:1997 at buildings where people are likely to be affected.
- 7 All mechanical air handling/air conditioning plant shall be suitably isolated from the structure of the building, and fan units positioned in ducted systems shall be isolated from the ducting by means of flexible connections.
- 8 That prior to demolition the existing structure requires to be surveyed in accordance with MDHS100 'Surveying and Sampling of Asbestos Containing Materials' and HSG 227 'Comprehensive Guide to Managing Asbestos in Premises' by a suitably competent person with UKAS accreditation for conducting asbestos surveys.
Once this survey has been completed, a risk assessment requires to be formulated, by a suitably accredited and competent person, which takes cognisance of the conclusions of the survey and which considers the safe removal

and disposal of any identified asbestos in accordance with the Control of Asbestos at Work (as amended) Regs 2002 and the Environmental Protection (Duty of Care) Regs 1991.

This risk assessment requires to be forwarded to the Planning Authority from whom approval is required prior to the commencement of works.

The recommendations made in the approved report require to be implemented to the Council's satisfaction and confirmation of this provided to the Planning Service.

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.
- 6 In the interests of amenity and in order to retain effective planning control.
- 7 In the interests of amenity and in order to retain effective planning control.
- 8 In the interests of amenity and in order to retain effective planning control.

For information only

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