

- 4) Outdoor dining to the front and rear of the premises shall cease at 9pm every day.

In the interests of the amenity of residential occupiers of the upper floor duplex flat and surrounding residential properties.

- 5) In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the National Planning Policy Framework and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan consisting of The Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, N19, T2, and BD6.

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

For information:-

This recommendation relates to the following Approved Plans

Plan Type	Plan Reference	Version	Received
Site Location Plan/Red Line/OS Plan			05.03.2012
Proposed plan showing all information	1646-20		05.03.2012

Introduction:

Permission is sought for the change of use of a sandwich shop to restaurant (A3) on Chapeltown Road. Highways have no objections and also Environmental Health have no objections subject to various conditions to protect residential amenity. Approval is recommended since the opening hours requested are also only marginally different to those agreed for the coffee shop. The applicant is also agreeable to conditions restricting the hours of use for outdoor dining to the front garden area and the hours for performance of live music within the premises. Delivery and refuse collection hours controls will remain the same. The flue has already been installed to the rear and is mostly internal. It is painted grey to match the adjacent dormer extension and is considered visually acceptable within the conservation area. Approval is therefore recommended.

Proposal:

Permission is sought for the change of use of a sandwich shop to restaurant (A3) on Chapeltown Road. The application is retrospective as an alcohol and performance licence has been obtained for the premises and implemented. Various events have already taken place at the coffee shop and complaints made to planning enforcement and environmental health colleagues concerning this unauthorized change of use. The external flue outlet to the rear has already been constructed and it is painted grey to match the adjacent recently approved dormer window to the upper duplex apartment. The remainder of the flue is routed internally through the building. No further external/ internal works are proposed, in any case the premises appears to be fit for purpose due to various works being previously undertaken for the implementation of the approved coffee shop. In addition, the site has benefitted from recent Heritage Lottery Funding and has ornamental traditional style railings erected to the front garden outdoor dining and smoking area. The applicant requires overall a slight increase in opening hours ie 7.30 am to 11pm Monday to Friday , Sunday and bank holidays and 7.30 to 11.30pm on Saturdays. Deliveries and refuse collection to be from 7.30am to 6pm Monday to Friday and 8am to 1pm on Saturday as existing.

Site and Surroundings:

The application relates to the ground floor converted shop unit of a mid-terraced stone property on Chapeltown Road. The building is one of five properties in the terrace, which are similar in their designs, with bay windows at ground floor level and gables features in the roof, providing accommodation over three storeys. Of the other units in the terrace, the building immediately adjoining to the north (2 Grange View) has been recently renovated and converted to flats- this is an end unit .Two of the units to the south (numbers 146 and 150- ie an end unit) are currently vacant. Number 148 has a nightclub on the ground floor with a function room and bar above.

The site has a narrow service road to the rear, leading from Grange View to the north which is a residential street with no through access onto Chapeltown Road. A bus lane runs along Chapeltown Road to the front of the site, which is operational from 7.30am to 9.30am Monday to Friday.

The application site is just outside Chapeltown Road district centre, but is adjacent to the boundary, which runs to the west and north of the terrace in which the site is located, and includes properties on the opposite sides of Chapeltown Road and Grange View. In addition to these nearby commercial uses, the property is also surrounded by residential areas to the east. The site is within Chapeltown conservation area, and is surrounded by a variety of building designs and materials, including other stone properties on the eastern side of Chapeltown Road and brick built commercial properties to the west, and residential properties in the terraced streets to the east.

Relevant Planning History:

An application to change the building from a terraced house into offices was refused in October 1980 on the grounds that the use of the building for offices in an area allocated for residential development was not acceptable, and on highway safety grounds, as there was insufficient parking provided (application H30/657/80). A subsequent appeal against this refusal was dismissed.

Permission was granted in April 1982 for the change of use of the building from a terraced house into a 1-bedroom flat and a 2-bedroom maisonette/duplex (application H30/70/82/).

An application for a staircase to the rear of the maisonette/duplex was approved in June 1983 (application H34/64/83/).

10/03065/FU Approval of change of use of ground floor flat to sandwich shop

10/04996/FU Approval of variation of condition 6 of approval 10/03065/FU re longer opening hours ie 7am to 10.30pm Monday to Sunday and 7am to 11.30pm on all bank holidays.

10/04998/FU Approval of rear dormer ,rooflight to the front of upper duplex flat and ornamental metal railings to the front..

11/04039/Cond Approval of discharge of all conditions (ie which can be discharged).

The nightclub to the south ie number 148 appears to have been in existence for some time. Various applications for extensions and alterations to the building have been approved, mainly in the mid 1990s.

Permission was granted in May 1995 for the change of use of the adjacent property to the north of the site, 2 Grange View, into 5 flats (application 34/42/95/FU). This neighbouring building appears to have been vacant for some time, although some works to the building have recently taken place, including the addition of a dormer window to the rear which was carried out without planning permission. An enforcement notice has now been served in

relation to the unauthorised dormer. The owner has stated in his letter of representation summarized below that the site is tenanted.

Statutory Consultations:

None.

Non Statutory Consultations:

Highways:

Have no objections as it appears that the shop has been running as a small café for some time and no parking problems have arisen as a consequence. In addition, the site is located adjacent to the district centre of Chapelton and parking is not permitted within the bus lane outside the property during the morning traffic peak.

Environmental Health:

Have no objections subject to conditions restricting the hours of use of the front outside dining area up to 9pm any night (apart from customer smoking at any time during the agreed opening hours for the premises) and restricting the performance of live music within the premises to between 7.30 am and 10pm every day. The submitted acoustic report demonstrates that noise from the newly installed kitchen extraction unit which runs internally through the upstairs duplex apartment and terminates with an external flue outlet just above the rear dormer window would not cause significant harm to the residential amenity of the occupants above the restaurant and also to surrounding residences. The slightly adjusted hours of opening are acceptable also.

Public/Local Response:

A site notice was posted on 16/3/2012.

I letter of objection from the owner of the neighbouring property le 2 Grange view on the following grounds:

- Hot food takeaway is not acceptable in residential area
- Rat infestations
- Objected to alcohol and live/loud music licence
- Antisocial behaviour ie noise , disturbance, litter including broken glass, threatening behaviour and drug use
- There has been a lot of public and private investment in the area
- Detrimental to the conservation area
- Parking problems
- Tenants have not renewed their tenancies

Planning Policies:

National

National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published on 27th March 2012 and replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

Local

Development Plan

The development plan for Leeds is the Unitary Development Plan Review 2006 (UDP). The site is within Chapeltown conservation area, and adjacent to the boundary with Chapeltown Road local centre. The following UDP policies are relevant to the consideration of the application:

- GP5 – General planning considerations
- N19 – Development in conservation areas
- BD6 – Extensions and alterations to existing buildings
- T2 – Highway safety

Chapeltown Conservation Area Appraisal

MAIN ISSUES

1. Principle of development
2. Visual amenity and impact on conservation area
3. Residential amenity
4. Highway safety
5. Other matters

APPRAISAL

1. Principle of development

The loss of a retail unit and replacement with a restaurant is not considered to be a problem as the site does not lie within the designated district centre. The principle of the change of use is therefore acceptable as the location is sustainable because it is closely related to the district centre (just opposite to the west of Chapeltown Road) and is located on a main road which is a frequent and reliable public transport route.

2. Impact on the character and appearance of the conservation area

The change of use will not be detrimental to the conservation area as most of the external alterations have already taken place under a previous approval. The flue outlet to the rear which is already installed and just above the new dormer window is painted grey to match the approved extension and is not too large or otherwise obtrusive. The proposal is acceptable in the conservation area.

3. Residential amenity

There are residential properties nearby to the east of the site, above the restaurant itself and adjacent to the north at Number 2 Grange View . In view of the restaurant use proposed to be retained , it is considered that conditions should be attached in relation to the control of opening hours, delivery hours, hours of outdoor dining and hours of live music/ performances in order to protect the amenities of residents in adjoining and surrounding residential premises. On this basis, it is not considered that the proposed development would detract from the amenities of nearby residents. In addition the flue will not cause unacceptable noise for the occupants of the upper duplex or surrounding residents. The proposal is acceptable in residential amenity terms.

4. Highway safety

No problems of highway safety and efficiency have arisen as a result of this retrospective change of use. In addition, there is an established bus lane to the front preventing on street parking to the front of the premises at peak times. The proposal is therefore acceptable in highway terms.

5. Other matters

Other matters raised by the representee which are not discussed in the above points are not considered to be material to the consideration of the planning application.

Conclusion

It is considered that the retrospective change of use to restaurant and the flue outlet are acceptable within the conservation area and in terms of impact on the residential amenity of neighbouring properties subject to the various conditions restricting opening hours, outdoor dining and live performances. In addition, there is no detrimental impact on highway safety and efficiency. On balance therefore, it is recommended that the application be approved.