

**Full Planning Application**  
**at**  
**46 South Clerk Street**  
**Edinburgh**  
**EH8 9PS**

---

**Development Quality Sub-Committee**  
**of the Planning Committee**

**Proposal:** Change of use from hot food takeaway to restaurant and hot food takeaway  
**Applicant:** Mr Zahid  
**Reference No:** 04/03095/FUL

**1 Purpose of report**

To recommend that the application be **GRANTED** subject to;

**Conditions**

1. The development hereby permitted shall be commenced no later than five years from the date of this consent.
2. The sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the application premises is audible in any neighbouring living apartment.
3. All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.
4. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.

5. The internal ventilation system shall be capable of achieving 30 air changes per hour and cooking effluvia shall be ducted to a suitable exhaust point to ensure that no cooking odours escape or are exhausted into any neighbouring premises, all to the satisfaction of the Head of Planning and Strategy
6. The approved internal ventilation system shall be installed and operational to the satisfaction of the Head of Planning & Strategy, before the change of use is effected.
7. Deliveries to be restricted to 0700 - 2000 Monday to Saturday and 0800 - 1800 on Sundays.

### **Reasons**

1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
3. In order to safeguard the amenity of neighbouring residents and other occupiers.
4. In order to safeguard the amenity of neighbouring residents and other occupiers.
5. In order to safeguard the amenity of neighbouring residents and other occupiers.
6. In order to safeguard the amenity of neighbouring residents and other occupiers.
7. In order to safeguard the amenity of neighbouring residents and other occupiers.

## **2 Main report**

### **Site description**

The application property is a ground floor takeaway unit forming part of a 4-storey ashlar tenement block.

The property is located within the South Side Conservation Area and is Category C listed.

### **Site history**

20.01.1993 - Planning permission granted for removal of condition on hours of operation (92/02875/FUL).

20.11.2003 - Planning permission refused and enforced for Dixy Chicken sign board and projecting sign in retrospect (03/03159/ADV).

## **Development**

The proposal is for the change of use from a hot food takeaway to restaurant/ hot food takeaway.

The restaurant will have 46 seats in total, 15 seats on the ground floor and 31 seats on the basement floor. Toilet facilities are provided on the basement floor. No external alterations are proposed.

Details of an internal ventilation system have also been provided. This utilises two existing chimneys.

## **Consultations**

### **Environmental and Consumer Services**

This Department has no objections to the proposals subject to conditions to safeguard residential amenity in respect of noise and ventilation.

## **Representations**

The application was advertised on 03.09.04. Two letters of representation from Southside Association and Southside Community Council have been received. The points raised are summarised as follows:

1. Concentration of sit-in cafes and small restaurants in the area.
2. Unsuitable size for use as a restaurant.

## **Policy**

The property is located on a Secondary Shopping Frontage is a District Shopping Centre in the Central Edinburgh Local Plan.

### Relevant Policies:

Policy L3 (LEISURE USES - RESTRAINT) requires particular care to be taken to prevent an excessive concentration of commercial leisure uses in the following areas of mixed but essentially residential character: Tollcross, Grassmarket and Nicolson Street/Clerk Street and environs.

Policy H11 (HOUSING AMENITY) establishes a presumption against new development and changes of use likely to introduce increased levels of traffic or activity to the detriment of residential amenity or to the reasonable prospects of further residential development where this is an objective of the Local Plan.

Policy CD2 (LISTED BUILDINGS) sets out criteria for assessing proposals affecting listed buildings and seeks to safeguard their character and setting.

Policy CD4 (CONSERVATION AREAS) requires that developments in a conservation area retain all features which contribute to the area's character and appearance.

Non-statutory guidelines 'RESTAURANTS, CAFES AND HOT FOOD SHOPS' provide guidance on the location of such uses and set out conditions to control their impact.

Policy CD5 (CONSERVATION AREAS - REDEVELOPMENT) sets out the criteria against which new development in conservation areas will be assessed, and seeks to preserve or enhance their character and appearance.

Policy CD3 (LISTED BUILDINGS - USES) establishes a presumption (with stated qualifications) in favour of retaining a listed building in (or restoring it to) its original use.

Policy CD19 (BUILDING ALTERATIONS) sets out requirements for the design, form, materials and positioning of alterations and extensions.

Non-statutory guidelines 'ALTERATIONS TO LISTED BUILDINGS' provide general guidance for assessing proposals for both internal and external alterations.

### **3 Conclusions and Recommendations**

#### **DETERMINING ISSUES**

The determining issues are:

- do the proposals preserve or enhance the character and appearance of the conservation area? there being a strong presumption against the granting of planning permission of this is not the case;

- do the proposals preserve the building or its setting or any features of special architectural or historic interest? If they do not, there is a presumption against the granting of permission. For the purposes of this issue, "preserve", in relation to a building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character;

- do the proposals preserve the listed building or its setting or any features of special or historic interest? there being a strong presumption against granting permission if they do not;

- do the proposals comply with the development plan?

- if the proposals do comply with the development plan, are there any compelling reasons for not approving them?

- if the proposals do not comply with the development plan, are there any compelling reasons for approving them?

## ASSESSMENT

To address these determining issues, the Committee needs to consider whether a) the proposed use is acceptable in this shopping centre, b) the proposals will adversely affect the character and appearance of the listed building or the conservation area and c) there will be any detrimental impact upon neighbouring residential amenity.

a) The change of use to hot food takeaway and restaurant from hot food takeaway will not result in the loss of a retail unit and will not therefore affect the character of the shopping centre.

The size of property is capable of accommodating a number of seats and is suitable for use as a restaurant.

b) The proposed internal alterations do not require listed building consent. No external alterations are proposed. The use is similar to that existing, therefore there is no impact upon the character or appearance of the listed building and the conservation area.

c) The property is already in commercial leisure use, the change from a take-way to a restaurant is likely to result in a less intensive use. Environmental and Consumer Services has no objections to the proposals subject to conditions. These conditions will ensure residential amenity is safeguarded. There will be no adverse impact upon neighbouring residential amenity.

In conclusion, the proposed use is acceptable for this property, there will be no detrimental impact upon the character and appearance of the listed building and the conservation area or on residential amenity.

It is recommended that the Committee approves this application, subject to the conditions stated.

Alan Henderson

**Alan Henderson**  
Head of Planning and Strategy

---

**Contact/tel** Wakako Hirose on 0131 529 3442

**Ward affected** 33 -Southside

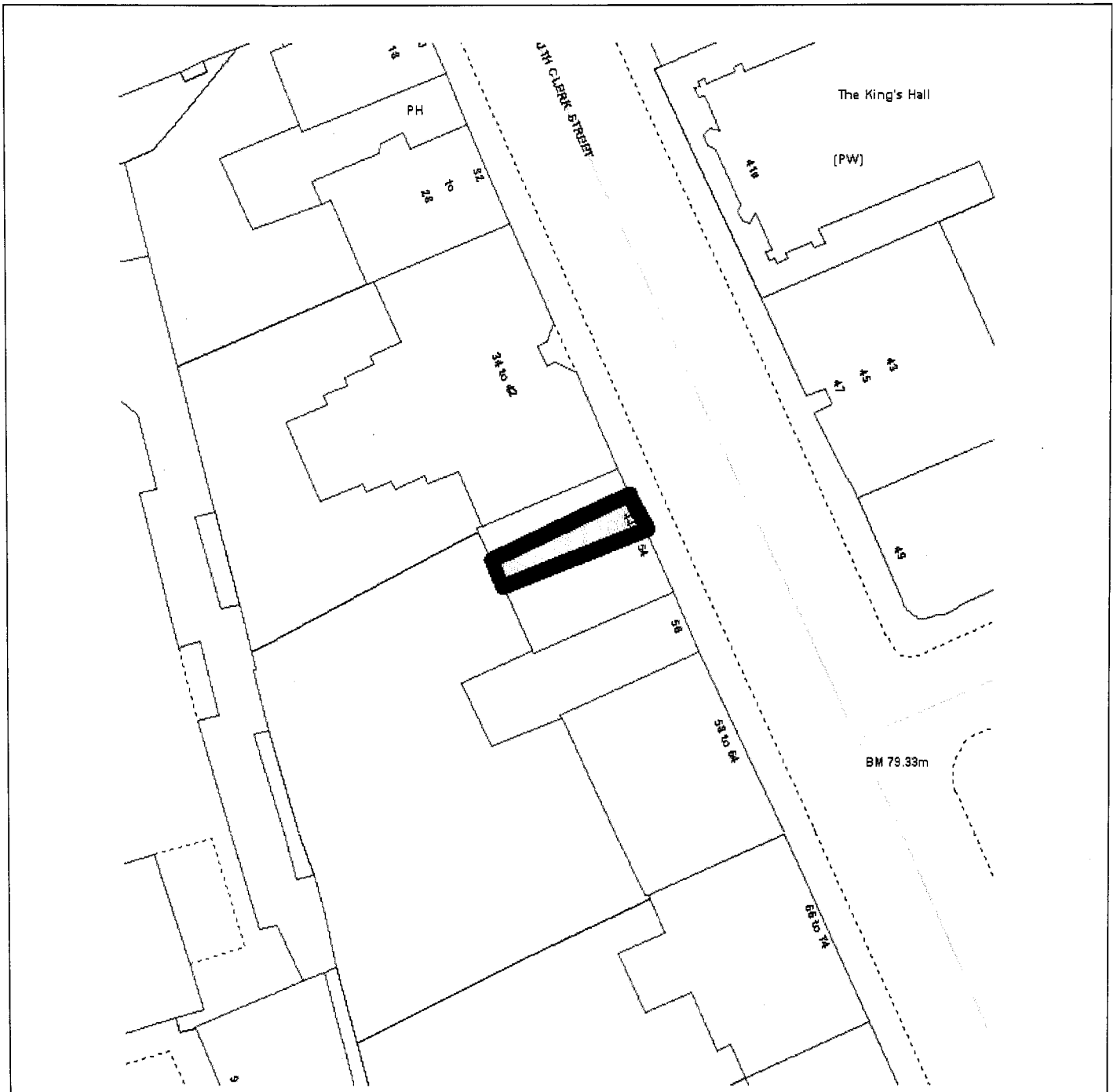
**Local Plan** Central Edinburgh Local Plan

**Statutory Development  
Plan Provision** District Shopping Centre

**File**

**Date registered** 25 August 2004

**Drawing numbers/  
Scheme** 02-05  
Scheme 1



Reproduction from the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence Number 100023420 The City of Edinburgh Council 2004.

# **PLANNING APPLICATION**

<b>Address</b>	<b>46 South Clerk Street, Edinburgh, EH8 9PS,</b>		
<b>Proposal</b>	<b>Change of use from hot food takeaway to restaurant and hot food takeaway</b>		
<b>Application number:</b>	<b>04/03095/FUL</b>	<b>WARD</b>	<b>33- Southside</b>
<b>THE CITY OF EDINBURGH COUNCIL</b>			
<b>THE CITY DEVELOPMENT DEPARTMENT- PLANNING &amp; STRATEGY</b>			