

Full Planning Application 09/00397/FUL
at
20 Montagu Terrace
Edinburgh
EH3 5QR

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

1 Purpose of report

To consider application 09/00397/FUL, submitted by Mohindra Pratap Dhall + Aruna Dhall. The application is for: **Change of use from post office to hot food fast take-away shop**

It is recommended that this application be **GRANTED** subject to the conditions below.

2 **The Site and the Proposal**

Site description

The application site is the ground floor unit of a 4-storey tenement building located on Montagu Terrace (Inverleith Row) between its junctions with Royston Terrace and Goldenacre Terrace. The unit is currently vacant having previously been occupied by a post office. The upper floors are in residential use. The surrounding area is typified by commercial activities at street level with residential properties above.

This property is located within the Inverleith Conservation Area.

Site History

There is no planning history for this site.

Description of the Proposal

Permission is sought to convert the vacant post office to operate as a hot food take-away. The existing chimney is to be utilised for ventilation purposes.

3 Officer's Assessment and Recommendations

Determining Issues

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of permission. 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 principle of the proposed use is acceptable;
- b) the proposal will preserve or enhance the character and appearance of the conservation area;
- c) the proposal will adversely affect residential amenity; and,
- d) there are any procedural issues that prevent the application from being determined;

a) The application site is situated within the Goldenacre local shopping centre. Planning policy states that within such areas applications for a change of use to non-retail uses will be considered favourably provided that the proposal will not result in a row of four or more consecutive non-retail uses being created and that the proposed use will complement the character of the centre and not detract from its vitality and viability.

The application site is flanked by a small convenience store and an off-licence, both of which are retail uses and as such the proposal complies with the first criterion. There are a number of hot food take-aways already within the centre but Goldenacre is not included within the Council's identified areas of sensitivity and therefore the issue of over-provision is not a material consideration in this instance. The proposal will remove a vacant unit from the local centre and therefore contributes to the vitality and viability of the centre.

The principle of the proposed use is acceptable.

b) The property is located in the Inverleith Conservation Area. However, the proposed ventilation system will utilise the existing chimney and there are no external alterations to the property. The streetscape will remain unaltered.

The character and appearance of the conservation area will be preserved.

c) Given the nature of the proposed use there is potential for existing residential amenity to be compromised by the release of cooking odours. However, the existing chimney is to be used which will expel odours beyond the highest residential window and Services for Communities is satisfied that residential amenity will be protected in terms of cooking odours. In order to protect the residential properties directly above, it is recommended that conditions are imposed relating to noise. With respect to external noise generated by people gathering around the premises, this is a matter that cannot be regulated through planning controls but rather by effective management of the hot food take-away.

Residential amenity will be protected by use of appropriate conditions.

d) It was identified that the neighbour notification procedure had been carried out incorrectly. The applicant has confirmed that owner and occupier notices were served correctly on 7 April 2009. A plan indicating the position of the proposed ventilation system has been provided. No details have been provided in respect of opening hours but there is no requirement to do so. The extent of hazardous materials to be stored is gas required for cooking purposes - this does not require hazardous substance consent.

In conclusion, the proposals comply with the development plan and the relevant non-statutory guidelines, preserve the character and appearance of the conservation area and would not prejudice residential amenity. There are no material considerations which outweigh this conclusion.

It is recommended that the Committee approves this application, subject to conditions in respect of noise and ventilation.



John Bury
Head of Planning

Contact/tel	Andrew Trigger on 0131 529 3931
Ward affected	A05 - Inverleith
Local Plan	Central Edinburgh Local Plan
Statutory Development Plan Provision	Local Centre
Date registered	20 February 2009
Drawing numbers/ Scheme	01-02 Scheme 1

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Control Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Graham Dixon on 0131 529 3519.
Email: graham.dixon@edinburgh.gov.uk.

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. On the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail david.emerson@edinburgh.gov.uk or henry.scullion@edinburgh.gov.uk

Appendix A



Application Type Full Planning Application

Application Address: 20 Montagu Terrace
Edinburgh
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Proposal: Change of use from post office to hot food fast take-away shop

Reference No: 09/00397/FUL

Consultations, Representations and Planning Policy

Consultations

Services for Communities (Environmental Assessment)

Environmental Health has no objections to this proposed development subject to the following conditions:

1. *The kitchen shall be ventilated by a system capable of achieving 30 air changes per hour, and the cooking effluvia shall be ducted to chimney head level to ensure that no cooking odours escape or are exhausted into any neighbouring premises, all to the satisfaction of the Head of Planning.*

2. *All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.*
3. *The design, installation and operation 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.*
4. *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.*
5. *Deliveries and collections, including waste collections, to be restricted to between 0700 - 1900 hours Monday to Saturday.*
6. *Hours of operation to be restricted to between 0700 - 2300 hours daily.*

Representations

The application was advertised on 6 March 2009 and has attracted 9 letters of representation, including from Trinity Community Council, all of which are objections.

The main points of objection/concern are:

- a) Issues relating to the principle of the proposed use, addressed in assessment a);
 - Further reduction of retail provision,
- b) Issues relating to residential amenity, addressed in assessment c);
 - Release of cooking odours,
 - Increased noise,
- c) Issues relating to procedural matters, addressed in assessment d);
 - Neighbour notification has been carried out incorrectly,
 - No details in respect of opening hours, hazardous materials and ventilation have been provided,

Other issues raised are non-material planning considerations.

Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.

Planning Policy

The application site is within a local centre as identified by both the Central Edinburgh Local Plan and the finalised Edinburgh City Local Plan. Both plans show the site in the Inverleith Conservation Area.

Relevant Policies:**Relevant policies of the Central Edinburgh Local Plan.**

Policy S7 (PROTECTION OF SHOPPING USES) sets out criteria for assessing changes of use (within defined retail frontages) from a shop unit to a service or other non-retail use appropriate to a shopping area.

Policy L2 (COMMERCIAL LEISURE USES) sets out criteria for assessing commercial leisure uses within the Retail and Office Cores, Mixed Activities Zone and other areas where commercial uses are present.

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.

Relevant policies of the Finalised Edinburgh City Local Plan.

Policy Ret 10 (Alternative Use of Shop Units – Elsewhere in Defined Centres) sets criteria for assessing the change of use of a shop unit to a non-shop use in defined centres (excluding core and primary frontages).

Policy Ret 12 (Food and Drink Establishments) sets criteria for assessing the change of use to a food & drink establishment.

Policy Hou 8 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Relevant Non-Statutory Guidelines

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.

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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **GRANTED**

Conditions

1. The development hereby permitted shall be commenced no later than five years from the date of this consent.
2. The kitchen shall be ventilated by a system located internally that is capable of achieving 30 air changes per hour, and the 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 & Strategy.
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 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.
6. Hours of deliveries and collections, including waste collections shall be restricted to 07.00 - 19.00 hours, Monday to Saturday only.
7. The hours of operation shall be restricted to 07.00 - 23.00 hours daily.

Reasons

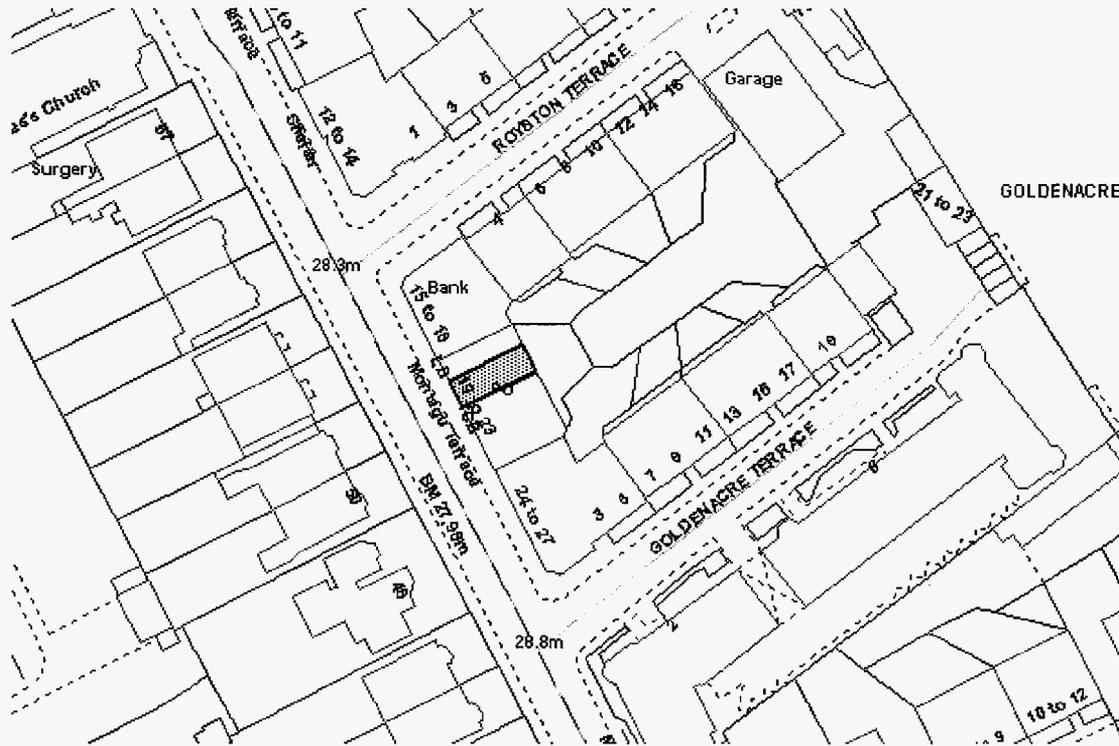
1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
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6. In order to safeguard the amenity of neighbouring residents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

End

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Location Plan

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