

Full Planning Application 05/04171/FUL
at
37 - 43 Leven Street
Edinburgh
EH3 9LH

Development Quality Sub-Committee
of the Planning Committee

1 Purpose of report

To consider application 05/04171/FUL, submitted by Shelf Company 2 Ltd.. The application is for: **Alteration of the existing public house via the change of use of ancillary storage and managers flat and the incorporation via the change of use of a vacant hot food takeaway unit to form a public house comprising ancillary restaurant area, beer garden, kitchen, storage, cellarage, managers office and toilet accommodation**

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

2 The Site and the Proposal

Site description

The site incorporates an existing public house with beer garden and outbuildings at 37-41 Leven Street (The Auld Toll), and a small takeaway unit at 43 Leven Street (Meadows Pantry). The public house is a two storey building with ancillary staff rooms and accommodation on the upper floor, and beer and other storage in the outbuildings to the rear. There is a stone wall to the rear of the beer garden, backing on to Hailes Street. It is a traditional stone built property with slightly built out timber frontage. The Meadows Pantry take-away occupies 2.8 metres of the 13.5 metre frontage. There is a small food preparation area to the rear. Between the shop and public house there is a pend leading through to the beer garden and access to the flat

above the bar via an external stair. Cellar areas for the bar are to the rear of number 37 at ground floor level and form one side of the beer garden.

Surrounding uses on Leven Street are commercial, mainly retail, at street level, with residential above. To the rear on Hailes Street and Leven Close there are residential properties.

The site is not within any conservation area, and it is not listed.

Site History

There is no relevant planning history for this site.

Description of the Proposal

The proposal is for the change of use of the sandwich bar at number 43 to incorporate it into the public house at 37-41, the alteration to the frontage of 37 to 43, and the demolition of outbuildings at the rear to accommodate a new restaurant and toilet block. The two frontages will become a single unified frontage, with the existing door to the pub being closed up and in filled to match adjoining stall risers. The new door will be through the former shop front at number 43 and to the east end of the new frontage will be the emergency exit door.

Internally, the upper floor will be converted to storage/cellarage and the kitchen. At ground floor there will be the public bar at the front of the extended unit and dining area in the new extension to the rear. The new building along the rear boundary will house toilets. There will be a courtyard area for use as an outside seating area.

The buildings to the rear will be new build although the building running the length of the left hand side will replace the existing stores and cellar of similar dimensions. The finish to these two extensions will be a smooth render, with brick piers to the canopy. They will have a mono-pitch felt roof. Double leaf glazed doors will be hardwood framed. The existing toilet block on the right hand side will be removed. The existing stone boundary wall will be retained and a brick planter erected against it up to a height of 550mm.

A short supporting statement has been submitted. This outlines the aim to provide a high quality bar with full dining facilities within the premises, to upgrade toilet and kitchen facilities, and to retain as much of the original period features of the premises as possible. The redundant shop unit would be re-integrated into the premises. It is stated that the Meadows Pantry has been vacant for 'some considerable time'.

3 Officer's Assessment and Recommendations

Determining Issues

- 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, are there any compelling reasons for approving them?

ASSESSMENT

To address these determining issues, the Committee needs to consider whether:

- A. the location is appropriate for a public house
- B. there will be any adverse impact on residential amenity
- C. there will be any adverse impact upon the vitality of the district shopping centre
- D. the alterations are acceptable in terms of design;
 - a. The property is located with a District Shopping Centre where other commercial units are present. A large part of the premises is currently in public house use at present, the proposals seek to extend these. The principle of a public house and restaurant use is acceptable in principle, provided there is no adverse impact on residential amenity or retail viability.
 - b. The site is in an "area of sensitivity" as defined by the supplementary guidance on 'Commercial Leisure Uses'. There is a strong presumption against any development which would lead to the further erosion of residential amenity in this area through increased noise or activity in the late evening.

The existing property at number 41-43 has a floor area in the bar of just over 100 square metres and a beer garden of 286 square metres. The bar has an occupant capacity of 200 whilst the beer garden has an occupant capacity of 286. The proposals result in 110.3 square metres of public bar area and 47.4 square metres of restaurant space with a beer garden of 75.86 square metres. This results in a total occupant capacity internally of 267 and in the beer garden of 151. The total capacity of the premises is, therefore, reduced. In particular the reduction of the beer garden area, the source of noise spillout to residential properties, will see an improvement in terms of impact on residential neighbours. The existing beer garden, being larger and right to the boundaries with neighbouring gardens will also alter in form as it becomes surrounded by the extension to the bar and screened to the east by the gable of the adjacent house. Rather than being open to neighbours it becomes

more of an internal courtyard. The acoustic report that has been prepared for this application has been assessed by the Environmental Assessment team in Services for Communities and the measures proposed therein form the basis of conditions. This will ensure that noise from within the premises is minimised, thereby resulting in no additional impact on neighbours.

With regards to the extension to the premises at the rear, this part of the proposal is not for use as public bar or restaurant area. It is intended to use this area for toilet facilities and storage. This extension will act as a buffer between the premises and residential premises to the rear which are most effected by the existing beer garden.

There has been mention of cooking smells, however the proposed scheme will have the kitchen on the upper floor, and ventilation will be via an existing chimney, which will be extended by 700mm, ensuring that fumes are expelled upwards and not towards neighbouring residential premises.

In conclusion, on balance, the increase in indoor floorspace and reduction in beer garden result in a proposal which is likely to improve residential amenity in the immediate vicinity. The capacity of the premises is not so increased to be at odds with the overall aim of policy and guidance in respect of sensitive areas as the intensity of the use is largely unaltered from the present situation.

c. The stretch of the shopping centre that runs from 1 Leven Street to 10 Gillespie Place currently has 68.4% of units in retail use. The proposed change of use would reduce the number of retail units by one, and would also reduce the total number of units by one. The result would be that the retail percentage would drop to 66.7%. This accords with Local Plan policy which requires 60% of units to be retained in retail use. In addition, the unit being lost is very small, with limited viability, and its loss is not considered to be detrimental to the vitality or viability of the district centre.

There will be no adverse impact on the vitality and viability of the District Centre. Indeed, an upgraded frontage and facilities at the premises are likely to contribute positively to the vitality of the Centre.

d. The design of the shop fronts will be in keeping with that which already exists. The design of the Auld Toll's frontage will extend across the retail unit, thereby unifying the frontage along the length of this building. The repositioning of the doors to the left and right hand sides will have no adverse effect on the appearance of the building. The paint colour has yet to be confirmed, but it will be the same across the entire frontage.

The buildings to the rear will be brick and render with hardwood framed double glazed doors opening onto the beer garden. The building will have a felt roof, which is in keeping with existing outbuildings. Stone paviours are proposed for the surfacing of the beer garden.

The design of the alterations, and the materials proposed are considered to be appropriate, and are in keeping with the context of the site.

It is concluded that the proposed change of use and alterations will create a bar restaurant which contributes to the vitality and viability of the District Centre. The alterations to the frontage will result in a minor improvement to the appearance of the frontage, and it is likely that despite the net increase in public floor area, the improvements to the layout, reduction in beer garden, and employment of sound proofing measures will preserve the amenity of neighbouring residents.

It is recommended that the Committee approves this application, subject to conditions relating to materials, plant noise control, and soundproofing measures.

Alan Henderson

Alan Henderson
Head of Planning and Strategy

Contact/tel	Barbara Cummins on 0131 529 3442
Ward affected	31 - Fountainbridge
Local Plan	Central Edinburgh Local Plan
Statutory Development Plan Provision	Mixed Activities
Date registered	19 January 2006
Drawing numbers/ Scheme	01-15, 17-26 Scheme 2

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, Ian Dryden on 0131 529 3464. Email: ian.dryden@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 gavin.king@edinburgh.gov.uk or carol.richardson@edinburgh.gov.uk

Application Type Full Planning Application
Application Address: 37 - 43 Leven Street
Edinburgh
EH3 9LH

Proposal: Alteration of the existing public house via the change of use of ancillary storage and managers flat and the incorporation via the change of use of a vacant hot food takeaway unit to form a public house comprising ancillary restaurant area, beer garden, kitchen, storage, cellarage, managers office and toilet accommodation

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Consultations, Representations and Planning Policy

Consultations

Environmental and Consumer Services

These proposals do not substantially change the use of the premises, the majority of which are an existing Public House. However, the upper level of the existing PH premises is currently designated as staff accommodation - these are destined to become the pub's kitchen and main beer cellarage, and the vacant hot food takeaway premises, at street level to the south of the existing pub premises, are to become an extension of the public bar area. As a consequence of potential detriment, with regard to noise disturbance and cooking odours affecting neighbouring residential occupiers, this Department requested that the applicant carry out appropriate assessments, and to submit these, alongside proposals for any mitigation that might be necessary.

A detailed noise assessment report by RMP Acoustic Consultants has since been received, and has been reviewed and accepted by Environmental Health. Based on the report's findings, and conditional on the recommendations contained within it being fully implemented, this Department has no objections to the application, subject to the following conditions.

- 1. The recommendations contained in the RMP Acoustic Report T/4087/06 (30 May 2006), submitted in conjunction with the application, shall be implemented in full. Any alterations to the proposals contained in the report shall be notified in writing to, and approved by, the Head of Planning, prior to any implementation.*
- 2. 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.

3. All music and vocals, amplified or otherwise, shall be controlled so as to be inaudible within any neighbouring residential premises.

4. The kitchen shall be ventilated by a system 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

5. The kitchen ventilation system shall be designed and installed so that gases are expelled with a minimum upwards velocity of 15 metres per second.

6. Deliveries to and uplifts from the premises shall be restricted to between 07.00 and 19.00 hrs Monday to Saturday, and to between 10.00 and 18.00 hrs on Sunday.

Representations

The application was advertised on 03/02/06. Two representations have been received from residents of Hailes Street. The issues raised relate to impact on residential amenity considered under assessment b.

1. existing noise complaints regarding beer garden
2. noise from air handling plant
3. smell nuisance

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 site is identified by the **Central Edinburgh Local Plan** as being within the mixed activities zone. The property is within a district shopping centre on a secondary retail frontage.

Relevant Policies:

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

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 CD17 (MATERIALS) sets out requirements for materials in new developments and seeks a greater use of stone, roofing slate and other traditional materials in appropriate cases.

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

Policy CD23 (SHOPFRONT DESIGN) promotes high standard shopfront design and sets out criteria for assessing shopfront proposals.

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 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 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 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.

Non-statutory guidelines 'COMMERCIAL LEISURE USES: CENTRAL EDINBURGH LOCAL PLAN POLICY L3: SUPPLEMENTARY PLANNING GUIDANCE' provides specific guidance in respect of such uses in identified areas of sensitivity.

Non-statutory guidelines on 'LOCATION OF LICENSED PREMISES' support local plan policies on proposals for licensed premises in locations where the protection of residential amenity may also be an issue.

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 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. A detailed specification, including trade names where appropriate, of all the proposed external materials shall be submitted to and approved in writing by the Head of Planning & Strategy before work is commenced on site; Note: samples of the materials may be required.

6. The recommendations contained in the RMP Acoustic Report T/4087/06 (30 May 2006), submitted in conjunction with the application, shall be implemented in full. Any alterations to the proposals contained in the report shall be notified in writing to, and approved by, the Head of Planning, prior to any implementation.
7. Deliveries to and uplifts from the premises shall be restricted to between 07.00 and 19.00 hrs Monday to Saturday, and to between 10.00 and 18.00 hrs on Sunday.
8. 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.
9. The kitchen ventilation system being designed and installed so that gases are expelled with a minimum upwards velocity of 15 metres per second.
10. The kitchen shall be ventilated by a system 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.

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 enable the Head of Planning & Strategy to consider this/these matter/s in detail.
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.
8. In order to safeguard the amenity of neighbouring residents and other occupiers.

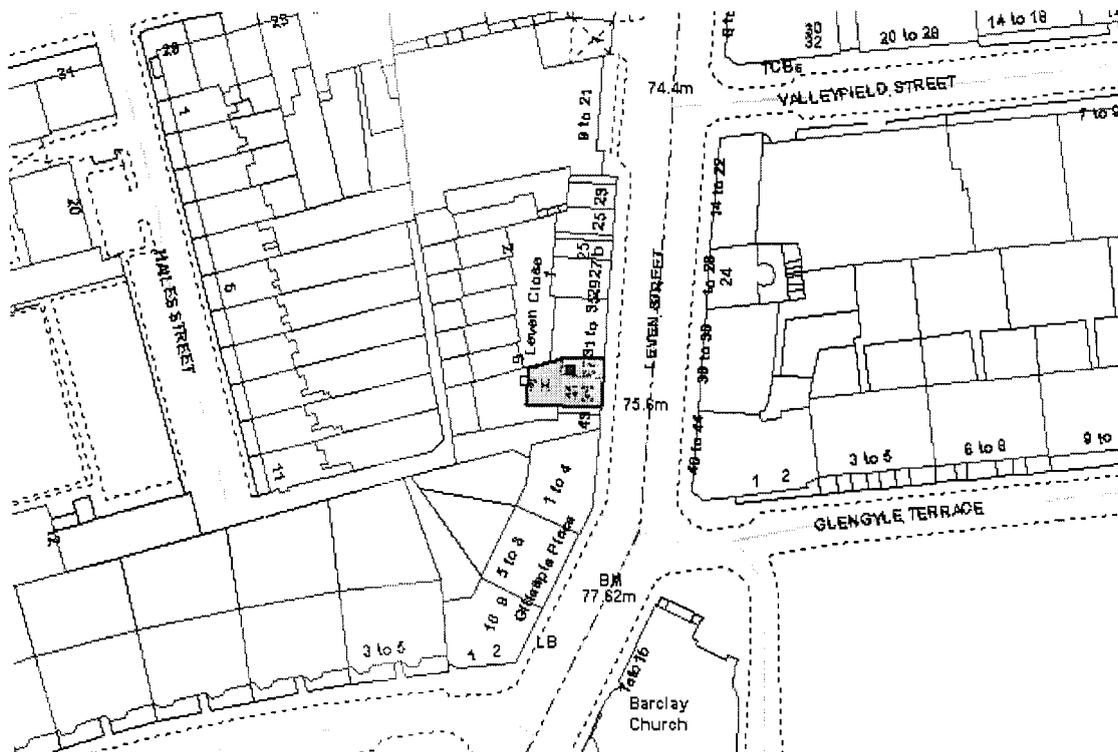
9. In order to safeguard the amenity of neighbouring residents and other occupiers.
10. In order to safeguard the amenity of neighbouring residents and other occupiers.

End

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Location Plan

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