

Full Planning Application
at
94 Buccleuch Street
Edinburgh
EH8 9NH

Development Quality Sub-Committee
of the Planning Committee

Proposal: Change of use from shop to hot food take away
Applicant: Mr Choudhury
Reference No: 03/01129/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 hours of operation shall be restricted to 8am until 8pm.
3. 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.
4. The soundproofing of the premises and the control of all amplified sound, including music, speech, electronic video games or other amusement machines, shall be such that no amplified sound is audible within nearby residential or commercial property.

5. 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.
6. 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.
7. The approved ventilation system shall be installed and tested for the escape of odours to the satisfaction of the Head of Planning & Strategy, prior to the use hereby approved being taken up.
8. The ventilation system shall be designed so that there is no requirement for the erection of an external flue or duct.

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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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.

2 Main report

Site description

The application relates to a ground floor retail unit situated on the west side of Buccleuch Street directly opposite its junction with Gifford Park. The area is characterised by stone built tenements with commercial premises at ground floor level and residential flats above.

The site lies within the South Side Conservation Area.

Site history

There is no relevant planning history on file for this site.

Development

The application is for the change of use the premises from a shop to a hot food takeaway. It was originally proposed to operate from 5pm until 11 pm, however, the applicants have confirmed that they now intend to operate between the hours of 8am until 8pm.

Ventilation will be via an existing chimney and new extract fans which will discharge via existing windows.

There are no external alterations proposed.

Consultations

Environmental and Consumer Services

This Department has no objection to the proposed development. However, they do have concern in relation to possible smell and noise issues, therefore they recommend the following conditions:

1. 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.
2. The soundproofing of the premises and the control of all amplified sound, including music, speech, electronic video games or other amusement machines, shall be such that no amplified sound is audible within nearby residential or commercial property.
3. 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.

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 & Strategy.
5. The approved ventilation system shall be installed and tested for the escape of odours to the satisfaction of the Head of Planning & Strategy, prior to the use hereby approved being taken up.

Transport

No objections

Representations

The application was advertised on 14 April 2003. Seven letters have been received objecting to the proposals on the following grounds:

- noise nuisance;
- smell from inadequate ventilation;
- litter;
- parking and road safety implications;
- detrimental to surrounding residential amenity

Policy

Central Edinburgh Local Plan - Housing and Compatible Uses and Main Tourist Approach Route.

Relevant Policies:

Policy L4 (LEISURE USES IN HOUSING AREAS) states that commercial leisure uses will not be acceptable in wholly or predominantly residential areas.

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

3 Conclusions and Recommendations

DETERMINING ISSUES

The determining issues are:

- 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 use is acceptable in principle in this location.
- b) whether there will be any adverse effects on residential amenity;
- c) Whether there will be any road safety or traffic implications.

There are no external alterations proposed and therefore the proposed change of use will have no impact on the character and appearance of the conservation area.

- a) The retail unit is not located within a protected shopping frontage, and therefore the proposed change of use to non-retail is acceptable in this respect. Policy L2 of the Local Plan states that commercial leisure uses will be acceptable in areas where other commercial uses exist, provided there will be no adverse impact on existing residential amenity. This stretch of Buccleuch Street, however, lies within an area of sensitivity as defined by the Central Edinburgh Local Plan where policy seeks to prevent excessive concentrations of commercial leisure uses in order to protect residential amenity. The introduction of a hot food takeaway within this area has the potential to increase late night activity to the detriment of residential amenity. The applicants have indicated, however, that they do not intend to operate outwith the hours of 8am to 8pm which satisfies the standard as set down by the non-statutory guidelines.

Commercial leisure uses will also not be acceptable in wholly or predominantly residential areas. There are residential properties above the application premises and within the immediate vicinity. However, there is also a large number of commercial units directly adjacent. The site is located on a main thoroughfare into the city centre. It is considered that the proposed hot food takeaway may be acceptable in principle in this location subject to compliance with other local plan policies.

b) Policy H11 seeks to prevent increases in traffic and activity to the detriment of residential amenity. As stated above, the site is within an area of sensitivity. Environmental Services has raised no objections to the proposal subject to conditions for sound insulation and appropriate ventilation measures. With the proximity of residential properties directly above the application premises, it is recognised that there is the potential for increase levels of activity associated with such uses and the detrimental effect this has on residential amenity. The premises, however, will operate within 'normal' opening hours. As stated above the site is situated on a main road with a number of existing commercial leisure uses in the area. In view of this, and providing suitable sound insulation and appropriate ventilation measures can be undertaken, it is considered that the impact on the existing residential amenity will be minimal and would not justify refusing this application.

The issue of waste disposal has been raised by objectors. A small internal storage area will accommodate rubbish gathered during hours of operation and the applicant's have confirmed that they have arranged a contract for this to be uplifted on a daily basis.

c) Transport have raised no objections to the proposed change of use and it is considered that there will be no road safety or traffic implications.

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 Emma Wilson on 0131 529 3634 (FAX 529 3717)

Ward affected 33 -Southside

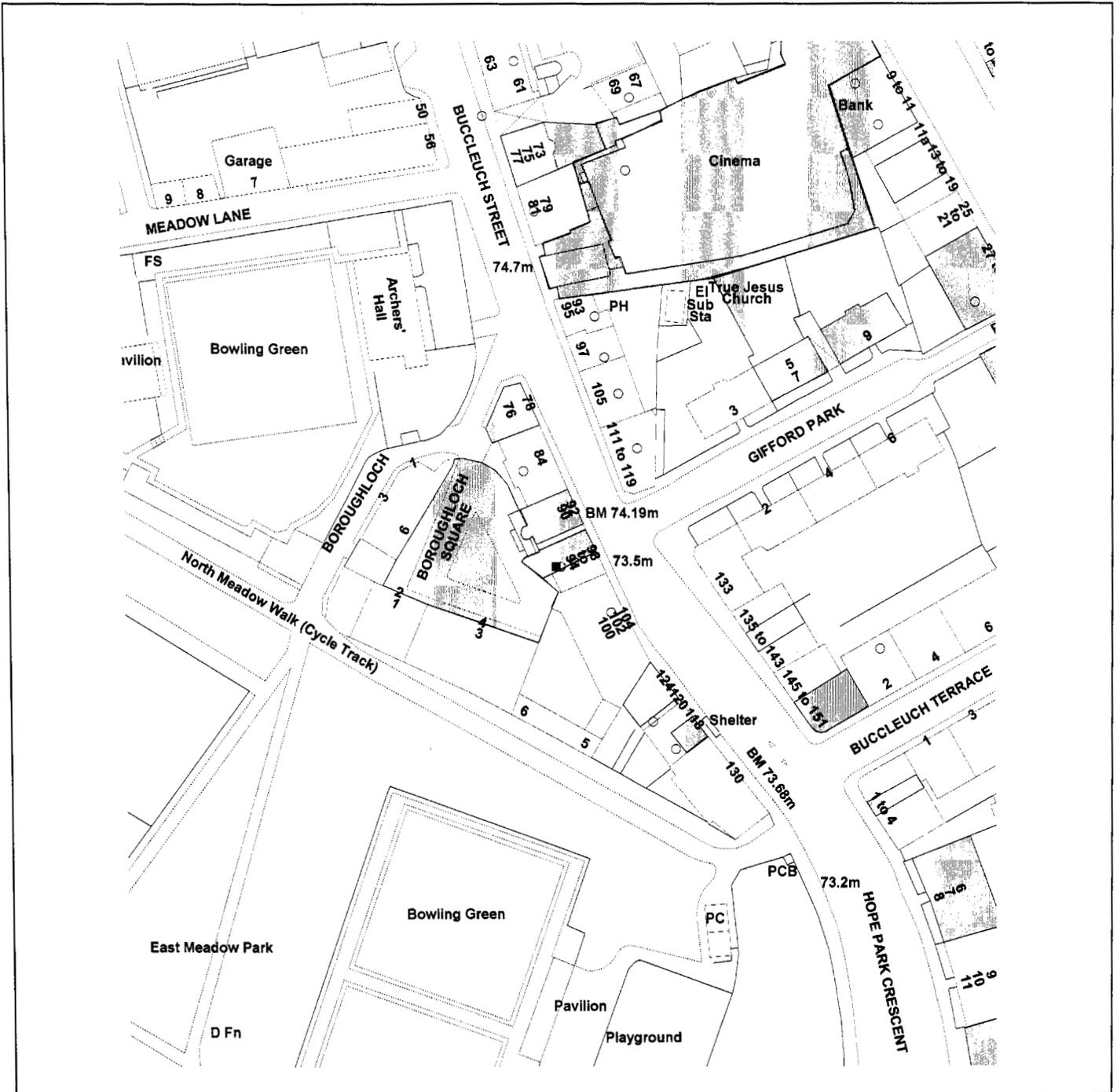
Local Plan Central

**Statutory Development
Plan Provision** Housing and Compatible Uses

File af

Date registered 3 April 2003

**Drawing numbers/
Scheme** 1-2
Scheme 1



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PLANNING APPLICATION

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Application number:	03/01129/FUL	WARD	33- Southside
THE CITY OF EDINBURGH COUNCIL			
THE CITY DEVELOPMENT DEPARTMENT- PLANNING & STRATEGY			