

Enforcement Report

177 Morningside Road, Edinburgh, EH10 4AX

Development Quality Sub-Committee
Of the Planning Committee

Owner/s C/o Cushman & Wakefield, 66 Hanover Street, Edinburgh,
EH2 1EL

Occupier Caffé Nero c/o Drivers Jonas, 50 West Nile Street, Glasgow, G1 2NP

Reference No: 04/00268/A02

1. Purpose of Report

Breach of Control

The unauthorised change of use from a retail unit to accommodate a café/hot food takeaway.

Recommendation

That an Enforcement Notice is served to ensure that the unauthorised café/hot food takeaway use ceases.

2. Main Report

Site Description

The unit is part of a tenement on the corner of Morningside Road and Falcon Road West. The area is characterised by tenement buildings with ground floor retail and commercial uses and flats above. The site lies within a Primary retail frontage where the permitted limit on non-retail uses is 20%.

History

On 6 February 2004 an application was submitted for change of use from Class 1 to Class 3. This application was refused as a delegated item as being contrary to Policies S7 and L2 on 11 March 2004. Complaints were received at the end of April that it was intending to open as a café. Following investigation, Enforcement staff established that the business was operating without the benefit of planning permission. A letter was sent to the agent, requesting the cessation of the café/hot food takeaway use, but no formal response has been received. Further site inspections have shown the use to be ongoing. It is clear that formal action is now necessary.

Representations

Two letters of complaint and an e-mail from Cllr O'Malley have been received, all of which object to the café opening without consent.

Policy

The site is in a Primary retail frontage in the Central Edinburgh Local Plan.

Relevant Policies:

Policy S7 (Protection of Shopping Uses) sets out the 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 Activity Zone, and other areas where commercial uses are present.

Non-statutory Guidelines on Restaurants, Cafés and Hot Food shops provide guidance on the location of such uses.

3. Conclusions and Recommendations

Assessment

The determining issue is whether the unauthorised change of use is acceptable in this location.

Consent was refused (04/00376/FUL) on the basis that the proposal would result in the loss of a retail unit in a Primary retail frontage, contrary to CELP Policies S7 and L2 to the detriment and viability of the shopping centre.

In spite of this refusal the change of use has taken place. The café provides both hot and cold food for consumption on and off the premises. The outlet is geared towards both take-away and sit in food. Hot food and drinks including soup, pasta, sandwiches, teas, and coffees are available.

In this frontage, 8 of 11 units within the frontage are within retail use (73% retail to 27%non-retail). The addition of the café changes the balance to 64% retail to 36% non-retail. This is contrary to Policy S7 and undermines the viability of the shopping frontage.

It is recommended that Committee agrees to take enforcement action to ensure the unauthorised café/hot food takeaway use ceases.


pp **Alan Henderson**
Head of Planning and Strategy

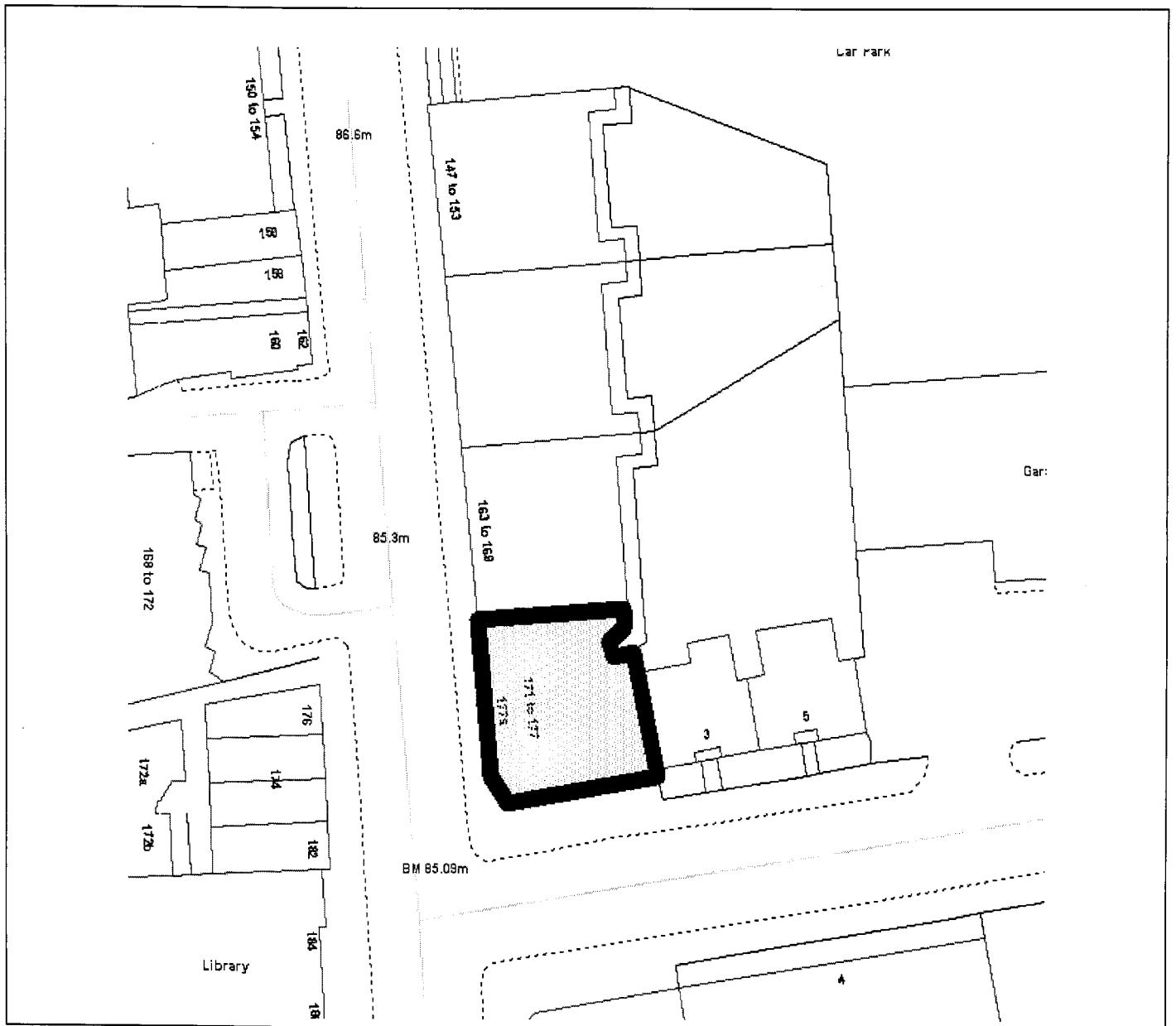
Contact/Tel Mark Dunlop on 0131 529 3478

Ward affected 46

Local Plan CELP

**Statutory Development
Plan Provision**

File



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ENFORCEMENT

Address	177 Morningside Road, Edinburgh, EH10 4AX		
Breach			
Application number:	04/00268/A02	WARD	46- North
THE CITY OF EDINBURGH COUNCIL THE CITY DEVELOPMENT DEPARTMENT- PLANNING & STRATEGY			