

## Full Planning Application 07/04219/FUL

at

35A Dalry Road

Edinburgh

EH11 2BU

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

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#### DEPARTURE FROM THE DEVELOPMENT PLAN

This development proposed by this application is a departure from the development plan:

The proposals do not comply with policy S7 of the Central Edinburgh Local Plan regarding the protection of shopping uses within defined retail frontages of local centres as the proposal will increase the percentage of non-retail use beyond the threshold. An exception is justified in this instance due to the finalised Edinburgh City Local Plan, the more up to date policies of which consider the change of use to be acceptable without detriment to the vitality and viability of the defined local centre.

#### 1 Purpose of report

To consider application 07/04219/FUL, submitted by John Crooks.. The application is for: **Change of use to coffee shop serving hot snacks (Extension to planning permission 02/03459/FUL).**

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 a vacant shop unit, on the east side of Dalry Road, close to the junction with Dalry Place. There is a single storey flat roofed projection, at the front of the shop unit. The rear part of the shop unit is located below an existing 'colony' style flat. The application site is adjoined by a baker's shop to the south and by a hairdresser's shop to the north.

The application site is not located within a conservation area.

### **Site History**

Planning permission granted for change of use from retail shop to sales and office area for courier and carrier services 06/01/1999 (ref; 3122 98).

Planning permission granted for change of use from retail shop to a coffee shop 04/12/2002 (ref; 02/03459/FUL)

### **Description of the Proposal**

The application is for an extension to planning permission 02/03459/FUL to allow a further 5 years to commence the development.

The application relates to the change of use of a vacant shop unit to a coffee shop. The proposed class 3 use would be restricted and the type of appliances would be limited to coffee and tea machines, soup urns, microwave ovens and pannini toasters only. The proposed hours of operation would be restricted to 8a.m. to 8p.m.

## **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 plan, are there any compelling reasons for approving them?

## ASSESSMENT

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

a) The premises are located on the primary shopping frontage identified in the Central Edinburgh Local Plan, as 11 to 67 Dalry Road. There are a total of 23 units on the frontage, 73% of which are currently or were last in retail use. The limit of policy S7 has, therefore already been reached. There is, however, an extant planning permission relating to the application site, for its change of use to a coffee shop serving hot snacks. The principle of a non-retail use at this site has therefore already been established. The difficulty in obtaining an occupier for this long term, vacant retail unit, was the main reason behind allowing a departure from shopping policy, in the case of the previous application. These circumstances have not changed, as demonstrated in the letters accompanying the current application, from the applicant and marketing agents. Under such circumstances, a departure from shopping policy is considered justifiable, providing that there is no adverse impact on residential amenity.

The Finalised Edinburgh City Local Plan has the premises located on a primary frontage. As mentioned previously, there are a total of 23 units on this frontage, 73% of which are currently or were last in retail use. The limit of policy Ret 9 would not be exceeded as a result of permitting this change of use as the total number of units in non-shop use would be below a third of the total number of units on the frontage. In addition to this, permitting the change of use would not result in four or more consecutive non-shop uses. The proposal would compliment the character of the centre and would not be detrimental to its vitality and viability. There is not considered to be an excessive concentration of such uses in the area, as outlined in policy Ret 12.

b) There are existing residential properties located above this shop unit, the entrances of which are located on Lewis Terrace, to the rear. The application is for a restricted class 3 use, the cooking operations being limited to the use of soup urns, toasters, microwave ovens and tea and coffee urns. The installation of a flue will not therefore be required, thus avoiding the associated nuisance caused by noise, odour emissions and the visual impact of such equipment. The proposed hours of operation would also limit any potential disturbance to an acceptable level. Environmental Assessment is satisfied with the proposal, providing that conditions from the previous permission (ref: 02/03459/ful) are imposed, relating to the above restrictions. The proposed restricted use is not detrimental to residential amenity.

It is recommended that the Committee approves the application, subject to the conditions restricting cooking operations and the control of noise levels from plant and machinery etc.

Alan Henderson

**Alan Henderson**  
Head of Planning and Strategy

Contact/tel	Craig Wood on 529 3904
<b>Ward affected</b>	30 - Dalry (OLD)
<b>Local Plan</b>	Central Edinburgh Local Plan
<b>Statutory Development Plan Provision</b>	Housing and Compatible Uses
<b>Date registered</b>	22 October 2007
<b>Drawing numbers/ Scheme</b>	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](http://www.edinburgh.gov.uk/planning).

If you require further information about this application you should contact the following Principal Planner, Helen Martin on 0131 529 3517. Email: [helen.martin@edinburgh.gov.uk](mailto:helen.martin@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](mailto:gavin.king@edinburgh.gov.uk) or [carol.richardson@edinburgh.gov.uk](mailto:carol.richardson@edinburgh.gov.uk)

**Application Type** Full Planning Application

**Application Address:** 35A Dalry Road  
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## Consultations, Representations and Planning Policy

### Consultations

#### Services for Communities – Environmental Assessment

*The Department has reservations regarding the introduction of a hot food shop with a cooking element below residential property, with no effective means of ventilation for the extraction of cooking odours.*

*Cooking, heating and reheating operations on the premises shall be restricted to the use of 1 microwave, 1 toastie machine, 1 soup urn, 1 tea/coffee machine only; no other forms of cooking, heating or reheating shall take place without the prior written approval of the planning authority.*

*The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measures within any nearby living apartment, and no structure borne vibration is perceptible within any nearby living apartment.*

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

*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.*

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

## **Representations**

No representations have been received.

## **Planning Policy**

The Central Edinburgh Local Plan locates the application site within a Primary Frontage where retail uses are to be retained and encouraged. The Finalised Edinburgh City Local Plan locates the site within Primary Shop Frontage.

### 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 Edinburgh City Local Plan**

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.

Policy Ret 9 (Alternative Use of Shop Units – Primary Frontages in the City Centre and Town Centres) sets criteria for assessing the change of use of a shop unit to a non-shop use in primary frontages in the City Centre and town centres.

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

#### **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 hours of operation shall be restricted to operation 8am to 8pm daily.
3. Cooking, heating and reheating operations on the premises shall be restricted to the use of 1 microwave oven, 1 toastie machine, 1 soup urn and 1 tea only; no other forms of cooking, heating or reheating shall take place without the prior written approval of the planning authority.
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. All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.
6. 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.

## **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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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.

