

**Planning Permission 09/02774/FUL  
at  
13 Comely Bank Road  
Edinburgh  
EH4 1DR**

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

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**DEPARTURE FROM THE DEVELOPMENT PLAN**

The 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 district 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 town centre.

**1. Purpose of report**

To consider application 09/02774/FUL, submitted by Archibald Frame Ltd. The application is for: **Change of use to coffee shop (Class 3)**

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

## 2. The Site and the Proposal

### Site description

The application property is the ground floor unit of a 4-storey tenement building located on the corner of Comely Bank Road and Dean Park Street. The ground floor is occupied by a shop and the upper floors are in residential use. The surrounding area supports a range of uses including retail, food and drink, commercial, educational and residential.

This property is located within the New Town Conservation Area.

### Site History

02.09.2003 - Permission was refused for new fascia and projecting signs (03/02473/ADV).

30.10.2003 - Permission was refused for a change of use to a hot food shop (03/01918/FUL).

09.02.2004 - Permission was refused for a change of use to a hot food shop (03/04635/FUL).

10.06.2004 - Permission was refused for a change of use to a hot food shop (04/01118/FUL). Appeal allowed.

31.03.2005 - Permission was granted for renewed shop signage (04/04206/ADV).

08.12.2005 - An enforcement case into noise and vibration emanating from a refrigeration unit was closed (05/00799/E39).

### PRE-APPLICATION PROCESS

There is no pre-application process history

### DESCRIPTION OF THE PROPOSAL

Permission is sought for a change of use from Class 1 (shops) to Class 3 (food and drink) to operate as a coffee shop. The operating hours will be 8am to 8pm daily. There are no external alterations proposed.

### **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 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; and,
- b) residential amenity will be adversely affected.

a) The application unit is within an identified secondary frontage of the Stockbridge district shopping centre where there are strict criteria to be met for change of use applications for non-retail functions. The adopted local plan states that no more than 40% of the frontage shall be occupied by non-retail uses.

The shopping centre affected currently has 2 non-retail uses; this represents 28.5% of the frontage. The proposal will increase the figure to 42%, which marginally exceeds the figure stipulated by the adopted local plan. The proposal however, accords with policy RET 10 of the Edinburgh City Local Plan as the change of use would not result in 4 or more consecutive non retail uses within the shopping centre. Also, as a coffee shop, it will maintain activity on this frontage, thereby safeguarding the vitality and viability of the shopping centre in keeping with the terms of policy RET10.

As the proposal meets the criteria of the finalised plan, a departure from the adopted plan is justified in this instance.

The principle of the proposed development is acceptable.

b) Given the proximity of residential properties, the proposed use could potentially have a detrimental impact in respect of noise and cooking odours. However, noise can be suitably controlled by the imposition of planning conditions restricting delivery times, music and machinery. No external ventilation equipment forms part of the application and restricted cooking operations are proposed. Services for Communities has assessed the application and raise no objections subject to suitable conditions restricting cooking operations.

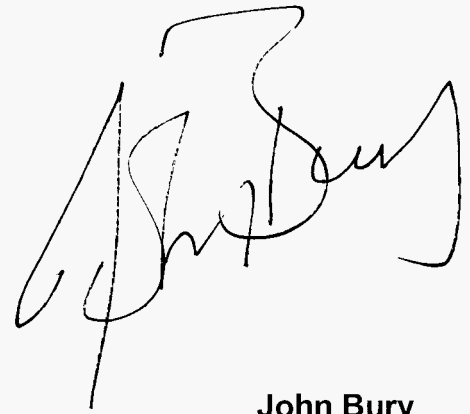
Residential amenity will be protected.

In conclusion, the proposal is contrary to the development plan but complies with the Edinburgh City Local Plan, which is at an advanced stage and justifies a departure in this instance. Residential amenity will be protected. There are no material considerations that outweigh this conclusion.

It is recommended that the Committee approves this application, subject to conditions relating to noise and cooking operations.

## **REASON FOR DECISION**

The proposal complies with the Edinburgh City Local Plan, which is at an advanced stage, in respect of retail protection and will not adversely affect residential amenity. There are no material considerations that outweigh this conclusion.



**John Bury**  
Head of Planning

<b>Contact/tel</b>	Andrew Trigger on 0131 529 3931
<b>Ward affected</b>	A05 - Inverleith
<b>Local Plan</b>	Central Edinburgh Local Plan
<b>Statutory Development Plan Provision</b>	District Shopping Centre
<b>Date registered</b>	26 November 2009
<b>Drawing numbers/ Scheme</b>	01 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, Graham Dixon on 0131 529 3519.

Email: [graham.dixon@edinburgh.gov.uk](mailto: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 4325/4273. Alternatively, you may e-mail [aileen.mcgregor@edinburgh.gov.uk](mailto:aileen.mcgregor@edinburgh.gov.uk) or [jack.dunn@edinburgh.gov.uk](mailto:jack.dunn@edinburgh.gov.uk)

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Consultations, Representations and Planning Policy

Consultations

**Services for Communities (Environmental Assessment)**

*Environmental Health has no objections to the proposed development subject to the following condition:*

- 1) *Cooking, heating and reheating operations on the premises shall be restricted to the use of a microwave, soup kettle, baked potato oven and panini grill. No other forms of cooking, heating or reheating shall take place without the prior written approval of the planning authority.*
- 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) *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) *Deliveries and collections, including waste collections, to be restricted to 07.00 - 20.00 hours Monday to Sunday.*

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

Representations

The application was advertised on 4 December 2009. One letter of representation has been received, from a neighbouring resident, objecting to the proposal.

The main points of objection/concern are:

- potential impact on residential amenity,
- lack of details relating to ventilation and opening times.

***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 identified by the Central Edinburgh Local Plan within a district shopping centre. The Edinburgh City Local Plan, as proposed for adoption, shows the site within the Stockbridge town centre.

### **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 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** 'FOOD AND DRINK ESTABLISHMENTS' 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. Cooking, heating and reheating operations on the premises shall be restricted to the use of a microwave, soup kettle, baked potato oven and panini grill only; no other forms of cooking, heating or reheating shall take place without the prior written approval of the planning authority.
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. Hours of deliveries and collections, including waste collections shall be restricted to 07.00 - 20.00 hours, Monday to Saturday only.



**Reasons**

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

**INFORMATIVES**

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
2. No development shall take place on the site until a 'Notice of Intention to Develop' has been made in writing to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

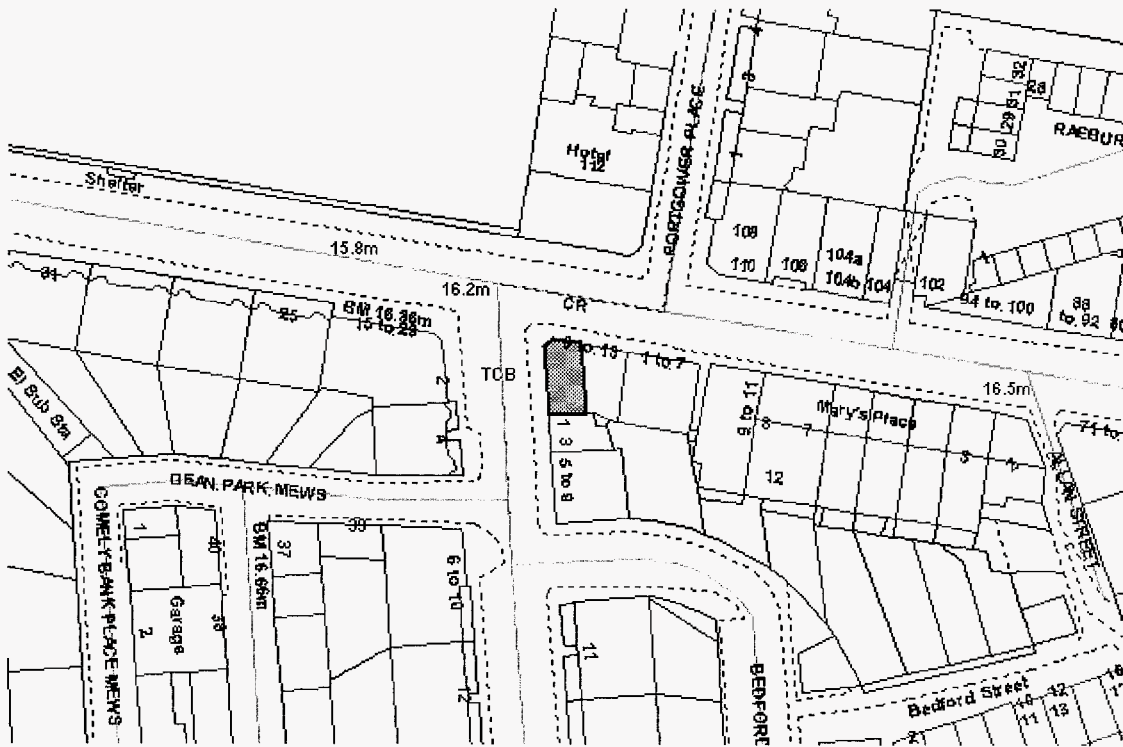
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End

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## Location Plan

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