

**Planning Permission 12/02317/FUL
at
14, 15, 16
North West Circus Place
Edinburgh
EH3 6SX**

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

1 Purpose of report

To consider application 12/02317/FUL, submitted by RAM Restaurants Ltd. The application is for: **Proposed variation of opening hours until midnight on Fridays and Saturdays only.**

It is recommended that this application be **Refused** by Committee.

2 The Site and the Proposal

Site description

The site relates to the ground and basement floor of a former bank premises, which has been operating as a licensed cafe since August 2002. It forms part of a 4-storey and basement terraced tenement by Robert Brown, 1825, with alterations by Reid and Forbes, 1933. There are residential flats above.

The site is located on the north side of North West Circus Place between St Stephen's Street to the west and Circus Lane to the east.

The property is category B listed (listed on 14.12.1970, LB ref 28521).

The site is within the World Heritage Site.

This property is located within the New Town Conservation Area.

Site History

23 January 1995 – refuse and enforce application to replace cash machine (94/02659/FUL).

8 March 1999 - consent granted for change of use of basement store to flatted dwelling house at number 17a, (99/00037/FUL).

21 August 2002 – permission granted for part change of use from retail (Class 1) to a coffee shop (restrictive Class 3) and retail use (02/01742/FUL).

22 July 2003 – consent granted to alter swing of entrance door, form ramped access, re-locate seat at ground floor, form new internal window, remove section of existing concrete floor, install new glazed floor section, remove section of wall forming existing retail space, in lower ground floor (as amended) (03/01388/LBC).

21 October 2003 – consent granted to install new signage to existing fascia, install new external lighting lantern above entrance, install new cold cathode lighting tubes to existing fascia and install fibre optic lighting points to foot of stone mullions (partially in retrospect)(03/01482/ADV).

21 November 2003 – consent granted to install new signage to existing fascia, install new external lighting lantern above entrance, in stall new cold cathode lighting tubes to existing fascia, install freestanding condenser unit to rear elevation and install fibre optic lighting points to foot of stone mullions(Partially in retrospect) (03/01482/LBC).

30 October 2003 – permission granted to install air condenser unit (freestanding) in rear garden well area and alter planning conditions applicable to previously approved application regarding cooking restrictions (03/02437/FUL).

25 November 2004 – refuse and enforce banner advertisement / windbreaks (04/03488/ADV).

31 March 2005 – permission refused to vary the opening hours of the premises, from 1000 - 2300 as prescribed on planning permission 02/01742/FUL, to 1000 - 0100 (04/04542/FUL).

24 June 2005 – appeal dismissed and enforced for ‘Banner advertisement/windbreaks (in retrospect)’ (05/00039/REFENF).

20 July 2005 – consent granted to install 3 no. condenser units in well of communal garden to rear of property (in retrospect) (04/04304/FUL and 04/04304/LBC).

30 August 2005 – permission refused to vary the opening hours of the premises, from 1000 - 2300 as prescribed on planning permission (05/01819/FUL).

17 October 2005 – consent granted to extend existing kitchen area (05/02589/LBC).

23 January 2007 - consent granted to refit of kitchen, bar and seating area, granted (06/04613/LBC).

26 March 2007 – consent granted for signage (07/00465/ADV).

15 June 2007 – consent granted for signage (07/01374/LBC).

13 December 2007 – permission granted for change of opening time from 10am to 8am (07/03998/FUL).

11 October 2011 – consent granted for internal alterations to form new bar and servery area within former bank at ground floor level (in retrospect) (11/02774/LBC).

Pre-Application Process

There were no pre application discussions on this proposal.

Description Of The Proposal

It is proposed to extend the opening hours from 11pm to midnight on Fridays and Saturdays only. No other changes are proposed as part of this application.

3. Officer's Assessment and Recommendation

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 preserve the building or its setting or any features of special architectural or historic interest which it possesses? If not, there is a presumption against the granting of permission. For the purposes of this issue, "preserve", in relation to the building, means preserve it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

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) There will be any adverse effect on residential amenity.

Policy House 8 of the Edinburgh City Local Plan seeks to prevent the introduction or intensification of non residential uses incompatible with predominantly residential areas and also to prevent any further deterioration of living conditions in mixed use areas which also have an important residential function.

The property is located beneath three floors of residential flats and lies towards the end of the commercial frontage that extends eastwards from Hamilton Place. The other cafes in the vicinity close in the early evening with the exception of the public house located within the basement of the tenement at the corner of St. Stephen's Street and North West Circus place which operates until 11pm.

The character of the area is mixed but is predominantly residential. The introduction of the use as a cafe/delicatessen was considered acceptable in the 2002 application which granted consent for a change of use from retail (Class 1) to a coffee shop (restrictive Class 3) and retail use. However, this use has gradually intensified with recent consents for the extension of opening hours from 10 am to 8am in the morning (07/03998/FUL) and alteration of planning conditions applicable to the 2002 consent regarding cooking restrictions (03/02437/FUL). This incremental change in the nature of the premises has resulted in an intensification of a use within a predominantly residential area.

The request for an extension of opening hours from 11pm to midnight on two nights a week may appear modest, but would still have a significant impact on the residents immediately above and in the near vicinity of the premises. Environmental Assessment agrees with this view and maintains that an increase in the hours of operation until midnight will result in a loss of amenity for residents. Environmental Assessment recommends refusal of this application.

A total of eight letters in support and 18 letters of objection were received. Many of the letters were or wuppo45 from patrons of the restaurant and referred to the benefits of the proposed later hours to the vitality of the nearby area. However, as indicated above, this would have a materially detrimental effect on the living conditions of nearby residents and is therefore contrary to both Policy House 8 of the Edinburgh City Local Plan and the non statutory guidance on Food and Drink Establishments.

In conclusion, the proposals do not comply with the development plan and non statutory guidance in respect of residential amenity. There are no compelling reasons for departing from policy. The proposals would adversely affect residential amenity due to the introduction of weekend late night activity.

There are no material considerations which outweigh this conclusion.

It is recommended that the Committee refuses this application, for the reasons stated.

REASON FOR DECISION

The proposals do not comply with the development plan and non statutory guidance in respect of residential amenity. There are no compelling reasons for departing from policy. The proposals would adversely affect residential amenity due to the introduction of weekend late night activity.

John Bury
Head of Planning & Building Standards

Contact/tel	Diana Garrett on 0131 529 3620
Ward affected	A05 - Inverleith
Local Plan	ECLP
Statutory Development Plan Provision	Urban Area
Date registered	2 July 2012
Drawing numbers/ Scheme	1-2 Scheme 1

Advice to Committee Members and Ward Councillors

The full details of the application are available for viewing on the Planning and Building Standards Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Anna Grant, 0131 529 3521, anna.grant@edinburgh.gov.uk

If this application is not identified on the agenda for presentation and you wish to request one at the Committee meeting, you must contact Committee Services by 9.00a.m. On the Tuesday preceding the meeting. Contact details can be found in the Committee agenda papers.

Application Type Planning Permission
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Consultations, Representations and Planning Policy

Consultations

Transport Planning

I have no objections to the application

Environmental Assessment

The application proposes a variation of opening hours for the restaurant, prior to this it was a café with a large delicatessen in the basement. The unit is located in an area of Stockbridge with commercial activities operating below within a four storey block and basement tenement with residential flats on the upper floor.

There was previous history with this site detailed in application ref 05/01819/FUL. Environmental Assessments main concern with the proposal was the introduction of late night activity in a primary residential area. The other cafés in operation close in the early evening with the exception of the Public House operating till 11pm, this is a long established business in place for a while before planning legislation came into force.

This department are therefore still of the opinion that an increase in the hours of operation to midnight will result in a loss of amenity for residents on North West Circus Place as there is the potential for noise and disturbance as a result of increased activity in this area from patrons of the restaurant and vehicles/traffic flow at this time of night. For these reasons and given previous concerns relating to the application premises Environmental Assessment recommends refusal of this application.

Representations

The application was advertised on the 13 July 2012. A total of 26 letters of representation were received, comprising 8 letters of support and 18 letters of objection.

The material points of objection are as follows:

- a. impact on residential amenity, taken account of in assessment a)
 - noise and disturbance by late night activity

The letters of support refer to the benefits of later hours to the vitality of the nearby area.

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 within an Urban Area as identified in the Edinburgh City Local Plan.

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

Policy Env 6 (Conservation Areas Development) sets out criteria for assessing development in conservation areas.

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

It is recommended that this application be Refused by Committee, for the reasons below.

Conditions:-

Reasons:-

1. The proposal is contrary to Edinburgh City Local Plan Policy Hou 8 in respect of Inappropriate Uses in Residential Areas, as the extension of opening hours would alter the character of the premises to one liable to create increased noise and activity to the detriment of residential amenity.
2. The proposal is contrary to the Non-Statutory Guidelines in respect of Food and Drink Establishments, as the proposal is for a site that is 'under or in the midst of housing' as defined in this policy and would lead to increased activity during late hours to the detriment of the residents.

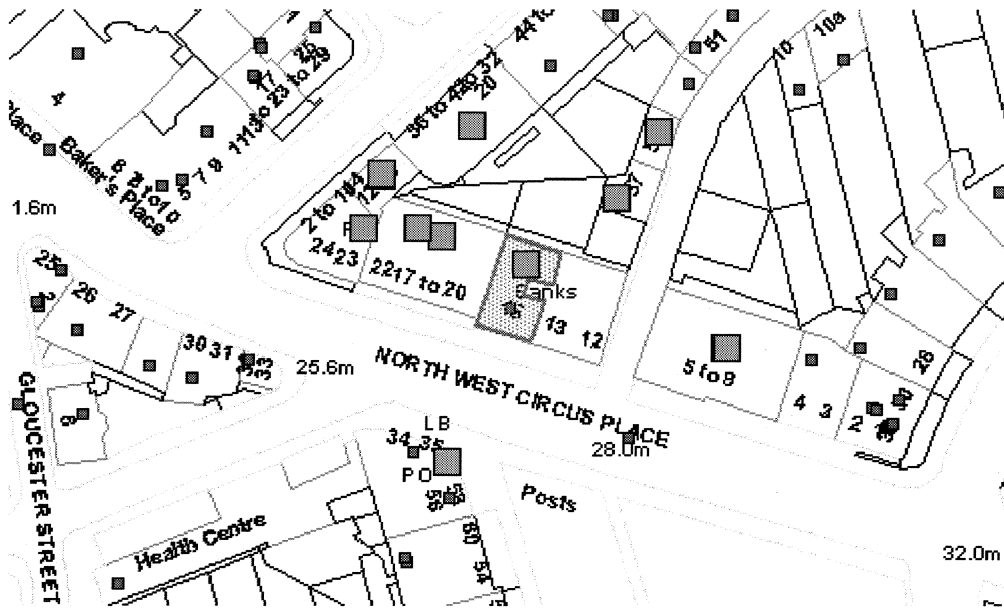
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Appendix C

Application Type Planning Permission

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Location Plan

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