

**Planning Permission 12/03216/FUL
at
135 Comiston Road
Edinburgh
EH10 6AQ**

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

1 Purpose of report

To consider application 12/03216/FUL, submitted by Earl Grey Tearoom.
The application is for: **Change of use from shop to tearoom (class 3)**.

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

2 The Site and the Proposal

Site description

The application site comprises a ground floor unit within a four-storey tenement block located on the eastern side of Comiston Road (A702), a main arterial route into the city. It is located within a terrace of buildings where all of the ground floor units are in commercial retail use with residential flatted dwellings on the three floors above.

The terrace is situated between the junctions with Comiston Terrace, to the north, and Braid Crescent, to the south. It comprises the ground floor units between Nos 109 and 137 Comiston Road, a total of 11 retail units; of which 4 are presently vacant.

The existing premises are being operated as a Pet Shop 'Paws Here', a Class 1 retail use for the purposes of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

This property is located within the Morningside Conservation Area.

Site History

There is no relevant planning history for this site.

Pre-Application Process

There is no pre-application process history.

Description Of The Proposal

The application proposes to change the use of the property from a retail shop, Class 1, to a 'Tearoom', Class 3 (for the sale of food or drink for consumption on the premises).

As part of the development the applicant proposes to install a flexible stainless steel duct lining into the existing chimney so as to facilitate a ventilation extraction system from the kitchen to chimney head level of the building.

There are no proposed alterations to the exterior of the building.

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 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 a cafe or restaurant use is acceptable in this location;
- (b) the scale and design of the proposals are appropriate to preserve or enhance the character and appearance of the conservation area;
- (c) there are any implications for road safety; and
- (d) there will be any loss of residential amenity as a result of the proposals.

- a) The proposal site is located within the defined 'Urban Area' of the city but is not located within any defined retail centre. It is, however, contained within a terrace where there are existing commercial retail frontages at road level and therefore subject to consideration against the relevant retail policy.

Policy Ret 11 seeks to control alternative uses of shop units, in those locations outwith defined retail centres. In this regard the property is located within a terrace of commercial properties. The proposed use is specifically identified with the development plan as being one appropriate to a retail centre. As such the proposed change of use would not result in the loss of the premises for small business use. Consequently, the proposal meets the relevant requirements of the policy in this instance.

Accordingly, the proposed use is acceptable in principle. However, the proposal also requires to be assessed against other relevant policy provisions relating to the wider potential impact of the proposed use within its proposed location.

b) Morningside Conservation Area Character Statement states that the area is a predominantly residential, characterised by Victorian and Edwardian villas with pockets of tenemental development at Comiston Road. South of the railway the streets of villas were laid out on the Braid Estate by R Rowand Anderson, the 'feuing architect'. Morningside Road and Comiston Road form the main through route, a place of activity in terms of social and commercial activity, containing a full range of shops and services. Comiston Road has less activity with levels falling off along the road towards the south.

The proposal seeks to make no alteration or change to the existing exterior of the building from that as existing.

Accordingly, the proposal would preserve the existing character and appearance of both the building as a whole and this part of the Morningside Conservation Area.

- c) The premises front onto a main arterial route into the city centre with good public transport links and limited on-street car parking.

Given the size of the proposed premises the intended use, as a 'Tearoom', is unlikely to result in any greater traffic generation than that of the existing use of the premises as a retail shop.

Transport has raised no objections to the proposal on road safety grounds.

- d) The applicant proposes to provide a suitable ventilation system to the premises.

This should ensure that the impact of odours to the neighbouring residential properties are maintained at suitable and acceptable levels. Along with such

a system it is reasonable to seek to limit the noise from any equipment associated with it.

Accordingly, a condition is required to ensure that such a ventilation system is installed prior to the first use of the premises as a restaurant/cafe use and to control noise from the associated equipment.

Otherwise, the proposal will not have a detrimental impact upon the existing levels of residential amenity presently enjoyed by the occupants of the neighbouring properties.

In planning terms the relevant assessment is whether the premises are acceptable for the type of use applied for, not one that considers whether there are adequate numbers of similar uses within a particular area. National planning policy makes it clear that it is for the commercial market to determine whether the numbers of such uses can be economically sustained within a particular area.

Matters of hygiene and waste are subject to other regulatory procedures and are not material to a planning land use assessment of the proposal.

Fire risk issues are equally subject to other regulatory procedures, principally controlled by Building Standards.

In conclusion, the proposals comply with the development plan and the relevant non-statutory guidelines, preserve the character and appearance of the conservation area and would not prejudice nature conservation, residential amenity or road safety. There are no material considerations which outweigh this conclusion.

It is recommended that the Committee approves this application, subject to the conditions requiring the installation of a suitable ventilation system at the premises prior to its first occupation for the proposed use.

REASON FOR DECISION

The proposals comply with the development plan and non-statutory guidelines and maintain the character of the conservation area and have no adverse effect upon neighbouring amenity or road safety. A condition is attached to ensure control an adequate means of ventilation prior to first use of the premises.

John Bury
Head of Planning & Building Standards

Contact/tel	John Maciver on 0131 529 3918
Ward affected	A10 - Meadows/Morningside
Local Plan	Edinburgh City Local Plan
Statutory Development Plan Provision	Conservation Area and Urban Area
Date registered	10 September 2012
Drawing numbers/ Scheme	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 Standards Portal: www.edinburgh.gov.uk/planning.

If you require further information about this application you should contact the following Principal Planner, Paul Devaney, 0131 529 3911, paul.devaney@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.

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Consultations, Representations and Planning Policy

Consultations

Environmental Assessment

No comments have been received.

Transport

Has no objections to the proposed application.

Representations

The application was advertised on 14 September 2012 and attracted eight letters of representation from neighbours objecting to the proposal.

The material points of objection/concern are:

- a. Residential amenity issues, taken account of in assessment (d):
 - odour and general disturbance.

Other points raised; such as, insect or vermin infestation, increased fire risk and associated building insurance increases, reduction in property values and the existence of other such uses within close proximity of the application premises, are not material.

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

Edinburgh City Local Plan - Urban Area and designated Conservation Area.

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.

Policy Ret 11 (Alternative Use of Shop Units in Other Locations) sets out the factors to be taken into account in assessing the change of use of a shop unit outwith defined 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 'FOOD AND DRINK ESTABLISHMENTS' provide guidance on the location of such uses and set out conditions to control their impact.

Other Relevant policy guidance

The Morningside Conservation Area Character Appraisal emphasises that the architectural character of the conservation area is largely composed of Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of private open space. The villa streets are complemented by the profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas which are in variety of architectural styles are unified by the use of local building materials.

Appendix B



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Conditions/Reasons associated with the Recommendation

It is recommended that this application be Granted by Committee, subject to the conditions, reasons and informatives stated below.

Conditions:-

1. No development shall take place at the premises until such time as a ventilation system, to the cooking area, has been implemented in full and made operational to the satisfaction of the Head of Planning. That ventilation system shall be designed and installed so as to be capable of achieving that cooking effluvia shall be ducted to roof level to ensure that no cooking odours escape or are exhausted into any neighbouring premises.
2. 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.

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.

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 Initiation of Development has been submitted 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. For the duration of development, between the commencement of development on the site until its completion, a notice shall be: displayed in a prominent place at or in the vicinity of the site of the development; readily visible to the public; and printed on durable material.
4. 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.

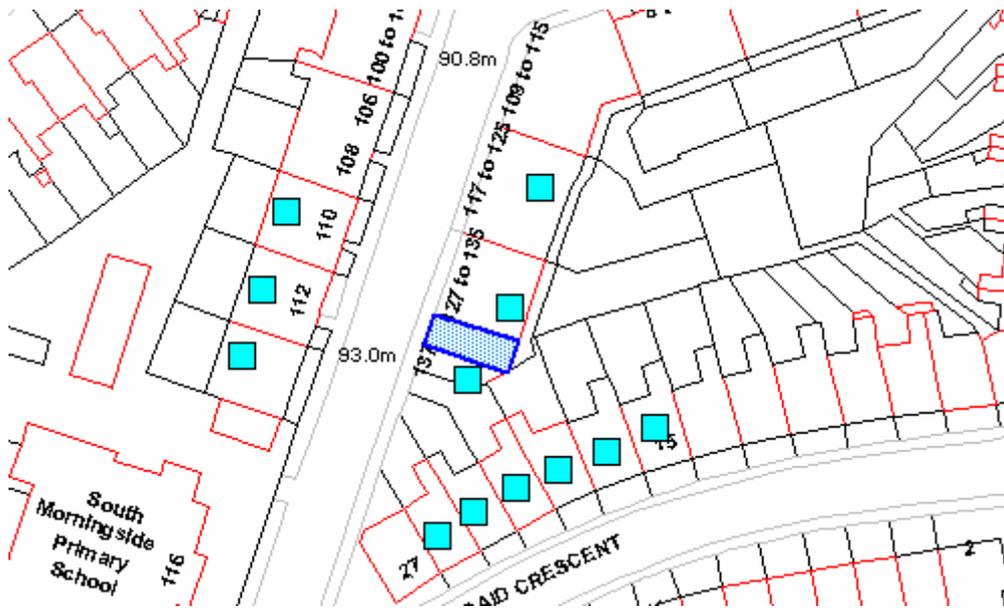
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Appendix C

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Location Plan

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