

# Development Management Sub Committee

Wednesday, 16<sup>th</sup> January 2013

**Application for Planning Permission 12/03348/FUL  
At 164 Bruntsfield Place, Edinburgh, EH10 4ER  
Change of use to letting agency, for office use and  
administration(Class 2 ) from existing business ( Class 1).  
Change to shop front.**

Item number	3.2
Report number	
Wards	A10 - Meadows/Morningside

## Links

[Policies and guidance for this application](#) CITR9, CITE6, CITE4, CITD12, CRPMAR, NSBUS,

**David R. Leslie**

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# Executive summary

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## Summary

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Whilst the proposal exceeds the number of non-shop uses within a protected shopping frontage as stated in Ret 9 of Edinburgh City Local Plan, the proposal is of an appropriate commercial use which would compliment the character of the centre and would not be detrimental to its vitality and viability. In addition it complies with Policy Env 6 Conservation Area - Development, Policy Env 4 Listed Buildings Extension and Alterations and Des 12 Shopfront Design and Advertising of Edinburgh City Local Plan by way of its scale, form and design.

## Recommendations

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It is recommended that this application be Granted subject to the details below (in section 3 of the main report).

## Financial impact

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There are no financial implications to the Council.

## Equalities impact

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This application has no impact in terms of equalities or human rights.

## Sustainability impact

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This application is not subject to the Edinburgh Standards for Sustainable Building.

## Consultation and engagement

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### Pre-Application Process

There is no pre-application process history.

### Publicity summary of representations and Community Council comments

The application was advertised on 5th October 2012 and attracted three letters of representation, from a neighbouring commercial business, a residential property and

the Cockburn Association. The grounds of objection relate to alternate use of shop units within this stretch of Bruntsfield Place and the details of the proposed shopfront.

Issues raised within the representations concerning business competition and the specific business type within the use class are not material planning considerations.

### **Background reading / external references**

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- To view details of the application go to
- [Planning and Building Standards online services](#)

## **Application for Planning Permission 12/03348/FUL At 164 Bruntsfield Place, Edinburgh, EH10 4ER Change of use to letting agency, for office use and administration (Class 2 ) from existing business ( Class 1). Change to shop front.**

### **1. Background**

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#### **1.1 Site description**

The site lies on the north side of Bruntsfield Place and relates to a ground floor retail unit within a 5 storey stone building on a busy shopping street. The site is surrounded by other commercial properties on the ground floor with residential premises on the upper floors.

The building forms part of a group listing category B 158-174 even nos Bruntsfield Place and 2 Bruntsfield Avenue (listed building number 26738) which was listed on 03/02/1993.

This property is located within the Marchmont, Meadows And Bruntsfield Conservation Area.

#### **1.2 Site History**

November 2012 - An application for Listed Building Consent has been received for alterations to the existing shop front.

Other relevant history

20 January 2011 – planning permission was granted for a change of use from retail to medical services (hearing aid users) at 166 Bruntsfield Place. The site forms part of a primary shopping frontage. At the time 23% of the units were non-retail and the change would not result in four or more consecutive non-shop uses (planning application number 11/03252/FUL).

18 October 2011 – planning permission was granted for retrospective change of use from class 1 retail to class 3 coffee shop at 124-130 Bruntsfield Place. The site forms part of a primary shopping frontage. At that time the proposal did not result in one third of the total number of units in the frontage being non-shop use or four or more consecutive units in non-retail use (planning application number 11/028451/FUL).

9 December 2011 – Committee granted planning permission for a change of use from Class 1 to Class 3 at 202 Bruntsfield Place. The site lies within a primary shopping frontage. By granting planning permission this was a minor infringement of Policy Ret 9 as a third of 11 units equates to 3.6 units in non-retail use, but there were still not more

than four or more consecutive units in non-retail use (planning application number 11/03119/FUL).

29 March 2012 -planning permission was granted for a change of use from shop to hot food takeaway at 136 Bruntsfield Place. The site lies within a primary shopping frontage. At that time 29% of units were non-retail but not more than 4 consecutive units are non-retail (planning application number 12/00217/FUL).

29 June 2012 - planning permission was refused for a change of use from Class 1 to Class 3 at 88 Bruntsfield Place. The site lies within a primary shopping frontage 40% to 45% are non-retail use which is contrary to Ret 9. No supporting details submitted giving evidence that shopping centre in decline. (Planning application number 12/01497/FUL). This refusal was upheld by Local Review Body.

2 August 2012 planning permission was granted for change of use from Class 1 to Class 2 Office at 103-105 Bruntsfield Place. The site forms part of a primary shopping frontage. At that time 23% of units were non-retail but there would still be no more than one third of the total number of units in the frontage were non-shop use or four or more consecutive units in non-retail (planning application number 12/02332/FUL).

## **2. Main report**

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### **2.1 Description Of The Proposal**

The proposal is for a change of use to a letting agency, for office use and administration (class 2) from existing business (class 1). The proposal also includes changes to the shop front.

The proposed materials are timber and glass.

The agent has submitted a statement in support of the application.

### **2.2 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 consent.

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 consent. 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?

### **2.3 Assessment**

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

- a) the development is acceptable in principle;
- b) the scale and design of the proposal is acceptable and respects the character and appearance of Marchmont, Meadows and Bruntsfield Conservation Area and the setting of the listed building;
- c) the scale and design of the proposal is acceptable and respects the character and appearance of the setting of the listed building;
- d) the proposal will have an adverse impact on residential amenity;
- e) the proposal will have any adverse impact on road safety;
- f) any impacts on equalities or human rights are acceptable; and
- g) comments raised have been addressed.

#### a) Principle of Development

The application site falls within a defined town centre of Morningside/Bruntsfield, and is a Primary Shopping Frontage.

Policy Ret 9 of the Edinburgh City Local Plan determines that no more than one third of the total number of units in the frontage should be in non-shop use and the proposal would not result in four or more consecutive non shop uses, and the proposal is for an appropriate commercial or community use which would complement the character of the centre and would not be detrimental to its vitality and viability.

For the purpose of this application the defined frontage includes 132 - 174 Bruntsfield Place, (even numbers), and 2 Bruntsfield Avenue.

At present 10 of the 17 units within this frontage remain in retail use, 58%. 5 units are in non-shop use, 29% and 2 are vacant, including the application site.

The proposal will result in 6 units within the frontage being in non-shop use, 35%. The proposed change of use will result in the a non-shop uses exceeding one third of the defined frontage.

As the units at 168 Bruntsfield Place and 166 Bruntsfield Place are Class 2 and the unit at 162 Bruntsfield Place is a class 3 restaurant unit the proposal will also result in four or more consecutive units in non shop use.

The recent planning history for this street has granted planning permissions for change of use from Class 1 to Class 2 or Class 3, which has retained the centre's vitality.

It is accepted that, whilst by granting the change of use would result in four or more consecutive units in non-shop use and 35% of units within the protected frontage being non - retail this is a marginal infringement of policy and a departure is justified as such a change would not adversely affect the vitality and viability of the shopping centre.

An exception to policy is justified.

#### b) Impact on Character and Appearance of the Conservation Area

The site lies Marchmont, Meadows and Bruntsfield Conservation Area where the traditional features and proportions of the shop front should be preserved. Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal identifies Bruntsfield as *principally residential with shops and other commercial activities occupying ground floor units of tenement properties on the principal roads*. The original features on these older buildings should be preserved and reinstated into the new design. In this case the new fascia fits into the existing proportions within this row of shops which have retained many of their traditional features and architectural details. The existing stallrisers and cornicing is to be retained in the new shop front. The proposed materials complement the existing shopfronts. The proposal complies with Policy Env6 and the Marchmont, Meadows and Bruntsfield Conservation Area Character Appraisal.

#### c) Impact of proposal on the Character of the Listed Building

The building lies within a group of listed buildings where the ground floor premises are commercial. The design and materials of the new shop front retain the existing detailing. The proposal complies with the Policy ENV4 Listed Buildings –Alterations and Extensions, Policy Des 12 Shopfronts and the Council’s non-statutory Planning Guidance on Businesses.

The scale and design of the proposal is acceptable and respects the character and appearance of Marchmont, Meadows and Bruntsfield Conservation Area and the setting of the listed building.

#### d) Impact on Residential Amenity

The application site is located on the ground floor with residential properties immediately above. Environmental Assessment has advised that they have no objections to the proposal provided there are conditions attached to protect the neighbouring residential properties against excessive noise.

Planning conditions must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. The test when considering necessity is whether planning permission would have to be refused if that condition were not to be imposed. Given the existing lawful commercial planning use of the premises and their location fronting onto a busy road within a mixed commercial and residential area it is considered the conditions requested are unnecessary in order to make the application acceptable.

It is considered that the amenity of neighbours will be maintained.

#### e) Road Safety Considerations

It is not considered that the proposal will result in a significant increase in traffic. There would no detrimental impact on road safety.

#### f) Equalities and Human Rights Impacts

The proposed change of use and physical alterations to the shopfront will not have any impacts on either equalities or human rights.

### g) Representations

Concerns relating to the proposed shopfront alterations have been addressed through the submission of revised drawings removing the sub-fascia while maintaining stall risers. It is inappropriate for Planning to control the particular use within a specified use class. In addition, it is insufficient to withhold the grant of planning permission purely on the basis that a percentage or number of units contained in a policy has been exceeded. The correct test is potential impact on the vitality and viability of the existing shopping centre and it is considered that the proposed change of use would not have an adverse affect and therefore a departure from policy is justified.

In conclusion, whilst the proposal does not comply with the development plan, the removal of a vacant unit and the use of the unit which attracts people to this part of the City at a time when shops are clearly not viable outweigh policy in this instance. There is no loss to residential amenity. There are no other material considerations with outweigh this conclusion.

It is recommended that Committee approves this application.

## **3. Recommendations**

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**3.1** It is recommended that this application be Granted subject to the details below.

### **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.

**David R. Leslie**

Acting Head of Planning and Building Standards

**Statutory Development****Plan Provision**

The site lies within the Marchmont, Meadows and Bruntsfield Conservation Area where the historic character and appearance requires to be protected.

The site also lies within a Primary Shopping Frontage of Morningside/Bruntsfield Town Centre as designated within the Edinburgh City Local Plan.

**Date registered**

25 September 2012

**Drawing numbers/Scheme**

1-3

Scheme 2

## Links - Policies

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### **Relevant Policies:**

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

Policy Env 4 (Listed Buildings – Alterations & Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

Policy Des 12 (Shopfronts) sets criteria for assessing shopfront alterations and/or advertising proposals.

The Marchmont, Meadows and Bruntsfield Conservation Area is characterised by well proportioned Victorian tenemental perimeter blocks with Baronial detailing and the substantial area of the open parkland formed by the Meadows and Bruntsfield Links.

### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** 'GUIDANCE FOR BUSINESSES' provides guidance for proposals likely to be made on behalf of businesses. It includes food and drink uses, conversion to residential use, changing housing to commercial uses, altering shopfronts and signage and advertisements.

# Appendix 1

## Consultations

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### **Services for Communities Environmental Assessment**

*The application proposes a change of use from Class 1 (retail) to Class 2 (financial, professional and other services). Although a letting agency is being proposed at this location, Class 2 also permits the premise to be used as a betting office. As residential property is directly above, noise mitigating conditions require to be attached with respect to future potential use under the Use of Classes Order 1997.*

*Environmental Assessment has no objections to the application subject to the following conditions:*

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

*Should you wish to discuss the above, please do not hesitate to contact me on 0131 469 5742.*

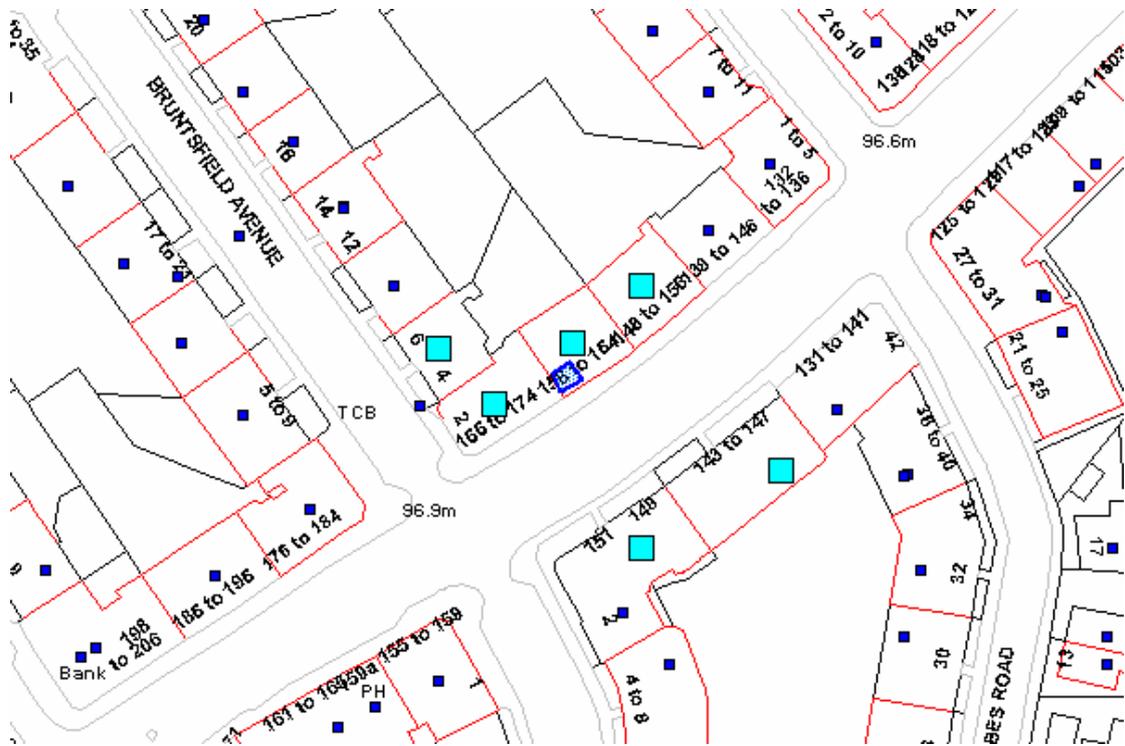
*Addendum*

*As stated above, Environmental Assessment has no objections to the approval of the application subject to the recommended condition being attached to any consent.*

*NB. However, should the above condition not be applied to any consent, Environmental Assessment will require to review the recommendation. In such event, it is imperative that this is notified immediately to the Environmental Assessment case officer.*

## Location Plan

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