

Full Planning Application 08/01902/FUL

at

255 - 257 Leith Walk

Edinburgh

EH6 8NY

Development Management Sub-Committee of the Planning Committee

1 Purpose of report

To consider application 08/01902/FUL, submitted by FGH (Mr Hadi Saleh).
The application is for: **Alterations to existing retail unit and change of use
to restaurant /cafe/bistro (part in retrospect)**

It is recommended that this application be **REFUSED AND ENFORCED**

2 The Site and the Proposal

Site description

The application site is a ground floor unit in a four storey stone tenement block, with residential properties above, on the east side of Leith Walk. It is in a row of eleven retail units. This unit is currently being used as a cafe; this use is unauthorised.

This property is located within the Leith Conservation Area.

Site History

16.01.2003 - Enforcement investigation into alleged change of use (03/00024/E29)

02.02.2005 - Enforcement investigation into alleged change of use (03/00041/E29)

03.04.2008 - Enforcement investigation into alleged change of use (08/00222/E29)

Description of the Proposal

This application, which is part in retrospect, is for change of use of the premises from a retail shop (Class 1) to a restaurant/cafe/bistro (Class 3). The drawings submitted indicate that there are 72 seats in the cafe. An external flue would be installed on the rear of the building and the rear door would be blocked up. The application was lodged following an investigation by the enforcement section of the planning function. The use is already in place.

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 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 change of use to a restaurant/cafe/bistro (Class 3) would be acceptable in this location;
- b) There would be any impact on residential amenity; and

c) The use would have a detrimental impact on the character and appearance of the conservation area.

a) The application site is part of a primary shopping frontage in the Leith Walk District Shopping Centre as identified in the North East Edinburgh Local Plan where no more than 20% of units should be non-retail use and no more than three consecutive units should be non-retail.

The Finalised Edinburgh City Local Plan identifies the unit as being in a primary shopping frontage in a Town Centre where no more than a third of units should be in non-shop use and permitting the change of use would not result in four or more consecutive non-shop uses.

The use does not result in four or more non shop uses located consecutively in the shopping frontage.

The shopping frontage contains 11 retail units of which 4 are non retail units, equating to 36% of the frontage. This figure is above the 20% threshold allowed by the local plan. The change of use of the application unit would result in 45% being in non-retail use. In terms of the Finalised Edinburgh City Local Plan, the amount of existing non shop units is also over the threshold, of one third of shop units in non-retail use, allowed.

The use is be detrimental to the vitality and viability of the centre by further reducing the number of retail units and changing the character of the shopping centre by introducing additional non-retail uses.

The proposal fails to comply with statutory policies in relation to alternative uses of shop units. The principle of the change of use is unacceptable.

b) The unit is located directly below residential properties; the proposal could have an impact on neighbouring residential amenity as a result of the escape of cooking effluvia and the breakout of noise and vibration. Services for Communities has raised no objections subject to the imposition of standard conditions in relation to the control of smells, noise and vibrations.

The proposal would introduce an external flue running to chimney head level of the building.

The proposal would not have an unacceptable impact on neighbouring residential amenity subject to the imposition of conditions controlling noise, smells and vibrations.

c) The Leith Conservation Area Character Appraisal identifies the unifying effect of traditional materials such as stone and slate within the conservation area. Victorian tenements of a uniform and repetitive nature predominate the

east side of Leith Walk. The application unit forms part of a traditional tenement building with these characteristics.

The erection of a stainless steel flue, running the full height of the building, would constitute an incongruous and visually unsympathetic addition to the plainly detailed rear elevation. The proposal would seriously undermine the architectural integrity of a style of building that forms an important component within the overall character and appearance of the conservation area. Services for Communities has requested that the flue be chimney height and this has the potential to impact on the streetscene and, therefore, would have a detrimental impact on the character and appearance of the building and the conservation area.

An existing flue on the adjacent tenement block indicates the impact such a prominent feature has on the character and appearance of the building. However, it is less conspicuous than the proposed flue where the adjacent tenement is set back from the rear building line of the rest of the row of tenements and is in the corner. Notwithstanding the above, the proposed flue would introduce an unsympathetic and uncharacteristic feature standing out from the other features on the rear of the building.

The rear door will be blocked up with stone faced concrete blockwork to match the colour of the existing stone. The proposed materials are modern, not traditional, and would have a detrimental affect on the character and appearance of the building, and are not acceptable.

The proposal would adversely affect the character and appearance of the conservation area.

In conclusion, the use is contrary to the North East Edinburgh Local Plan and Finalised ECLP as it results in the number of shop units in non-shop use being above an acceptable threshold. In addition, the proposed flue would constitute an uncharacteristic and insensitive feature to the detriment of the character and appearance of the conservation area. As it has been established that this change of use is not acceptable at this location, and there are no other material considerations to indicate otherwise, it is recommended that this proposal should be refused.

It is recommended that Committee refuses this application for the above reasons and initiates enforcement action in relation to the unauthorised use.

Alan Henderson

Alan Henderson
Head of Planning and Strategy

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|---|---------------------------------|
| Contact/tel | Jackie McInnes on 0131 469 3731 |
| Ward affected | A12 - Leith Walk (NEW) |
| Local Plan | North East Edinburgh Local Plan |
| Statutory Development Plan Provision | District Shopping Centre |
| Date registered | 27 May 2008 |
| Drawing numbers/ Scheme | 01 - 03 Scheme 2 |

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.

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.

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 or carol.richardson@edinburgh.gov.uk

Application Type Full Planning Application
Application Address: 255 - 257 Leith Walk
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Proposal: Alterations to existing retail unit and change of use to restaurant /cafe/bistro (part in retrospect)

Reference No: 08/01902/FUL

Consultations, Representations and Planning Policy

Consultations

Services for Communities (Environmental Assessment)

No objections to the proposed development subject to the following conditions:

- 1) *The kitchen shall be ventilated by a system capable of achieving 30 air changes per hour, and the cooking effluvia shall be ducted to chimney head level to ensure that no cooking odours escape or are exhausted into any neighbouring premises, all to the satisfaction of the Head of Planning.*
- 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.*

Representations

The application was advertised as an article 7 "Bad Neighbour" on 6th June 2008 and as a potential departure from the Development Plan on 11th July 2008. Five letters of objection have been received.

The areas of concern raised within the representations were:

- the amount of existing hot food premises in the area (this is addressed in section (a) of the assessment);

- The adverse impact on neighbouring residential amenity (this is addressed in section (b) of the assessment);
- The impact on the appearance of the building (this is addressed in section (c) of the assessment);

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 property is located within an area designated as a District Shopping Centre within the North Edinburgh Local Plan and a Town Centre within the finalised Edinburgh City Local Plan.

Relevant Policies:

Relevant policies of the North East Edinburgh Local Plan.

Policy S5 (PROTECTION OF SHOPPING USES - DISTRICT AND LOCAL CENTRES) sets out criteria for assessing changes of use (within defined retail frontages) from a shop unit to a non-retail use appropriate to a shopping centre.

Policy E21 (CONSERVATION AREAS - GENERAL): requires proposed development within a conservation area to retain all features which contribute to the character and appearance of the area.

Policy E22 (CONSERVATION AREAS - REDEVELOPMENT): sets out criteria against which new development in conservation areas will be assessed.

Policy E25 (DESIGN OF NEW DEVELOPMENT - OBJECTIVE): encourages new development of the highest possible standard.

Relevant policies of the Finalised Edinburgh City Local Plan.

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.

Policy Des 11 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

Policy Env 5 (Conservation Areas – Development) sets out criteria for assessing development in conservation areas.

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.

Non-statutory guidelines on 'SERVICES ON BUILDINGS' supplement local plan conservation and design policies, providing additional guidance on the installation of services on the exterior of buildings.

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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **REFUSED AND ENFORCED** for the reasons below.

Reasons

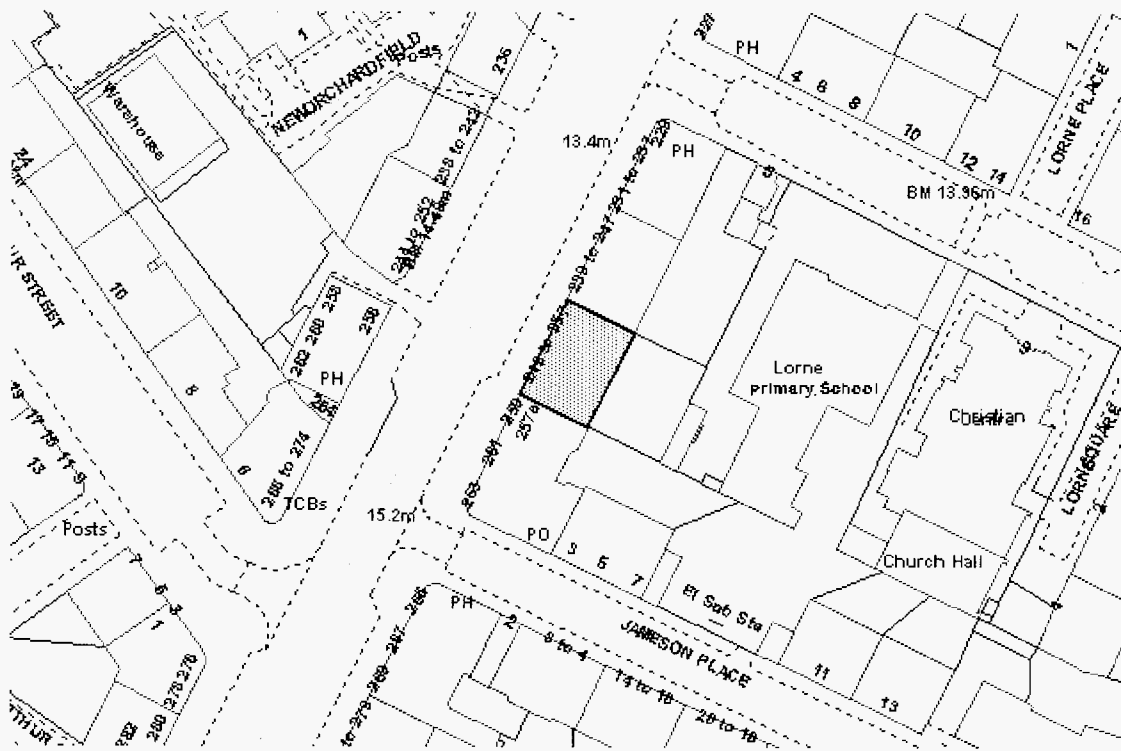
1. The proposal is contrary to the North Edinburgh Local Plan Policy S5, in respect of Protection of Shopping Uses in District Centres, and Policy Ret 9 of the Finalised Edinburgh City Local Plan in respect of Protection of Shopping Uses in Town Centres, as it results in an unacceptable amount of non-retail uses in an established retail centre to the detriment of the vitality and viability of that centre.
2. The proposal is contrary to the North Edinburgh Local Plan Policies E21, E22 and E25, and Policy Env 5 in the finalised Edinburgh City Local Plan, in respect of the detrimental impact on the character and appearance of the conservation area.

End

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Location Plan

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