

# Development Management Sub Committee

Wednesday 6 November 2013

**Application for Planning Permission 13/01433/FUL  
At 9 Shandwick Place, Edinburgh, EH2 4RG  
Change of use application from Class 1 (Retail) to Class 3  
(Food and Drink) at the merged units of 9 and 13 Shandwick  
Place.**

Item number	4.8
Report number	
Wards	A11 - City Centre

## Links

<a href="#">Policies and guidance for this application</a>	CITD3, CITE1, CITE4, CITE6, CITE18, CITR9, CITR12, CITT3, CITCA1, NSG, NSGD02, NSBUS, NSDCAH, NSLBCA, CRPNEW,
--	---

## David R. Leslie

Acting Head of Planning and Building Standards

Contact: Eileen McCormack, Planning Officer  
E-mail: eileen.mccormack@edinburgh.gov.uk Tel: 0131 529 3609

# Executive summary

## **Application for Planning Permission 13/01433/FUL At 9 Shandwick Place, Edinburgh, EH2 4RG Change of use application from Class 1 (Retail) to Class 3 (Food and Drink) at the merged units of 9 and 13 Shandwick Place.**

### **Summary**

---

The proposal represents an infringement of policy Ret 9 (a) of the City of Edinburgh Local Plan as it would result in 38.8 % of non-retail units in the primary frontage. However, this is justified by the benefits of the proposed use in this particular instance. No external alterations are proposed. No representations have been received. Subject to adequate ventilation, the proposal will not adversely affect local amenity. The proposal complies with the development plan and non-statutory planning guidelines and approval is recommended. There are no material considerations that outweigh this recommendation.

### **Recommendations**

---

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

### **Financial impact**

---

The application is subject to a legal agreement for developer contributions.

### **Equalities impact**

---

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

### **Sustainability impact**

---

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

### **Consultation and engagement**

---

#### **Pre-Application Process**

Pre-application discussions took place on this application.

#### **Publicity summary of representations and Community Council comments**

The application was advertised on 10 May 2013. No representations were received.

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

---

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

## **Application for Planning Permission 13/01433/FUL At 9 Shandwick Place, Edinburgh, EH2 4RG Change of use application from Class 1 (Retail) to Class 3 (Food and Drink) at the merged units of 9 and 13 Shandwick Place.**

### **1. Background**

---

#### **1.1 Site description**

The site comprises the ground floor premises at number 9 Shandwick Place and the ground floor and basement premises at number 13 Shandwick Place. Shandwick Place itself lies to the north, with its tenements continuing westwards. A small public area is on the east. The rear of commercial and residential property on Rutland Street sits to the south.

Number 9 Shandwick is part of the four storey and basement tenement at 7-11 Shandwick Place. It is listed Category B (listed: 12 December 1974, ref: 30175). Currently, the ground floor unit at number 9 is the administrative centre for Lothian Buses. There is a public house in the basement at number 9, below the east part of the application site. Number 9 Shandwick Place is accessed by external steps and a ramp on the east. Other uses in the tenement include retail at ground floor level, and offices on the upper floors. Change of use from office to hotel use has been consented, subject to the conclusion of a legal agreement, for number 5 Shandwick Place.

Number 13 Shandwick Place is a ground floor and basement shop, part of the four-storey tenement 13-23 Shandwick Place. It is listed Category C (listed: 23 March 2001, ref: 47728). Number 13 is entered from ground floor level on Shandwick Place. Until recently, it was occupied by Clark's shoe shop. Other uses in the tenement are retail at ground floor level and offices above.

The site is part of the primary shopping frontage 7 to 99 Shandwick Place within the City Centre Retail Core.

This property is located within the New Town Conservation Area and Edinburgh World Heritage Site.

#### **1.2 Site History**

There is no relevant planning history for the application site.

##### Relevant planning history for adjacent site, 5 Shandwick Place

27 September 2012 - planning permission minded to grant, pending conclusion of a legal agreement, for change of use of existing office accommodation at upper floor levels to hotel at 5 Shandwick Place (12/02900/FUL).

1 November 2012 - listed building consent granted for internal alterations to office accommodation at upper levels to form hotel at 5 Shandwick Place (12/02900/LBC).

## **2. Main report**

---

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

The application is for change of use from two separate retail units to a single restaurant. No external physical development is sought. Suitable ventilation is proposed through an existing flue.

The applicant has submitted the following documents in support of the scheme:

- Planning Statement, which includes an analysis of uses in the primary retail frontage of which the site forms part;
- Supporting Information detailing advertising of site; and
- Ventilation Report and supplementary letter.

These documents are available to view on the Planning and Building Standards Online Services.

### **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 principle of the development is acceptable;
- b. the proposal preserves or enhances the character and appearance of the conservation area and setting of the listed buildings;
- c. the proposal is detrimental to the amenity of neighbours;
- d. the proposal affects road safety;
- e. the proposal has any equalities or human rights impacts; and

f. material representations and community council comments raise issues to be addressed.

a. Principle

The Edinburgh City Local Plan (ECLP) Proposals Map identifies the site as being within a primary frontage in the city centre. The current use of the site is retail and the area is mixed use.

The change of use to a restaurant will result in 38.8% of the frontage being in non-shop use. This exceeds the level of non-shop use (one third of frontage) set out in criterion a) of ECLP policy Ret 9. The applicant has provided supporting information to show that the units have been marketed for Class 1 use since January 2013 without a positive response.

The proposal meets ECLP policy Ret 9 criterion b) as it would not result in four or more consecutive non-shop uses. It also meets criterion c) as it is an appropriate commercial use that would complement the character of the centre. There is space for outdoor seating in the paved area immediately outside number 9 Shandwick Place, and this proposal could help animate the wider Rutland Place civic space. This would be a strong benefit to the character and vitality of the area and complement adjacent uses, including retail. A restaurant in this location would not result in an excessive concentration of food and drink establishments in the area to the detriment of nearby amenity.

In summary, the principle of the proposal is contrary to Ret 9 as it fails criterion a). However, the proposal will help animate public realm space with activity likely to encourage vitality and complement existing uses, and an exception to policy is justified in this particular instance.

b. Impact on conservation area and listed buildings

The New Town Conservation Area Character Appraisal emphasises *the importance of the historic skyline to character and the overall classical elegance of the conservation area*.

No external physical alterations are proposed in this application. The applicant has advised that it is possible to vent through an existing flue serving adjacent premises at 3 Shandwick Place, within the same tenement and in the same ownership as the proposal site.

The proposal will have no adverse impact on the character and appearance of the conservation area.

c. Neighbour amenity

The offices above the site have 'minded to grant' consent (12/02900FUL) for change of use to a hotel. There is no objection, subject to conditions ensuring cooking odours are vented in a way that protects local amenity. The applicants have confirmed that suitable ventilation is possible through an existing flue which vents above eaves level. They have also confirmed that a tie-in to the flue can be taken internally. A condition precedent is recommended to ensure that the ventilation system is in place before development begins.

Subject to a ventilation condition, neighbour amenity will be protected.

#### d. Road safety

No car or cycle parking is proposed in association with the scheme. Transport has considered the proposal and does not object. A developer contribution of £44,208 will be required towards transport infrastructure.

The proposal does not raise any road safety issues.

#### e. Equalities and Human Rights

There is existing ramped access to the site at ground floor level. The proposal has been assessed in terms of equalities and human rights and does not have an adverse impact.

#### f. Public Comments

No representations or community council comments have been received.

### CONCLUSION

In conclusion, there are compelling reasons which justify a departure from the development plan and the proposal will enhance the character and vitality of the area and complement existing uses. Apart from the infringement described above, the proposal complies with the development plan and non-statutory planning guidelines and approval is recommended. There are no material considerations that outweigh this conclusion. The recommendation is subject to conditions on ventilation and a legal agreement on tram contributions.

## 3. Recommendations

---

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

### **3.2 Conditions/reasons**

1. No development shall take place until the ventilation system, as shown on drawing numbers 05, 06, and 07, has been implemented. The system shall be capable of achieving 30 air changes per hour and the cooking effluvia shall be ducted to 1metre above eaves level.

#### **Reasons:-**

1. 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. The kitchen/commercial cooking operations shall be ventilated by a system capable of achieving a minimum of 30 air changes per hour, and the cooking effluvia shall be ducted to one metre above eaves height to ensure that no cooking odour escape or are exhausted into any neighbouring premises

4. Failure to purify the condition precedent (Condition No. 1) renders the development unlawful and may be subject to formal enforcement action to cease the use.

5. Consent shall not be issued until a suitable legal agreement has been concluded in relation to tram contributions

### **Statutory Development**

#### **Plan Provision**

The site is located in the New Town Conservation Area and Central Area designated by The Edinburgh City Local Plan.

#### **Date registered**

29 April 2013

#### **Drawing numbers/Scheme**

01 - 07, Scheme 1,

### **David R. Leslie**

Acting Head of Planning and Building Standards

## Links - Policies

---

### **Relevant Policies:**

Policy Des 3 (Development Design) sets criteria for assessing development design.

Policy Env 1 (World Heritage Site) protects the quality of the World Heritage Site and its settings.

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

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

Policy Env 18 (Air, Water and Soil Quality) sets criteria for assessing the impact of development on air, water and soil quality.

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 Tra 3m (Tram Contributions) requires contributions from developers towards the cost of tram works where the proposed tram network will help address the transport impacts of a development.

Policy Ca 1 (Central Area) sets criteria for assessing development in the Central Area.

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

**Non-Statutory guidelines** Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings and landscape, in Edinburgh.

**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.

**Non-statutory guidelines** on Developer Contributions and Affordable Housing gives guidance on the situations where developers will be required to provide affordable housing and/or will be required to make financial or other contributions towards the cost of, providing new facilities for schools, transport improvements, the tram project, public realm improvements and open space.

**Non-statutory guidelines** 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

**The New Town Conservation Area Character Appraisal** states that the area is typified by the formal plan layout, spacious stone built terraces, broad streets and an overall classical elegance. The buildings are of a generally consistent three storey and basement scale, with some four storey corner and central pavilions.

# Appendix 1

## Consultations

---

### **Transport - response dated 07/05/2013**

*No objections to the application*

#### INFORMATIVE

*It is noted that this area has a high concentration of such establishments and high instances of indiscriminate parking are being observed especially early evening. Such occurrences will more problematic when the trams become operational.*

### **Transport - revised response dated 23/10/2013**

*No objections to the application*

*Prior to the issuing of consent the applicant to enter into a suitable legal agreement to make provision for the following:*

*Contribute the sum of £44208 towards the Edinburgh Tram Project as per council policy (Contribution based on COU 452 sq m Class 1 retail £40432 to 452 sq m Class 3 £84640 difference £44208 Tram Zone 1)*

#### INFORMATIVE

*It is noted that this area has a high concentration of such establishments and high instances of indiscriminate parking are being observed especially early evening. Such occurrences may be more problematic when the trams become operational.*

### **Environmental Assessment - response dated 23/07/2013**

*The application proposes the change of use of two shop units into a restaurant. The application site is surrounded by other commercial uses including a nightclub, fast food outlet and offices. It is located on the busy Shandwick Place with the nearest residential properties located on the other side of Shandwick Place. The applicant has advised that they may have outside seating located on Rutland Place; outside seating can be controlled by the Councils Licensing Department.*

*The applicant has provided confirmation that cooking odours will be ventilated to above eaves height and will meet all other ventilation stipulations required by Environmental Assessment. A condition is recommended to ensure that all cooking odours are continuously and adequately vented in a manner which will protect local amenity by way of odour.*

*Therefore, Environmental Assessment has no objections to this proposed development subject to the following conditions:*

*Cooking Odours*

*(i) The kitchen shall be ventilated by a system capable of achieving 30 air changes per hour, and the cooking effluvia shall be ducted to 1m above eaves level as demonstrated in drawing number CU\_202 dated 8 July 2013 and agreed with the Planning Authority to ensure that no cooking odours escape or are exhausted into any neighbouring premises.*

*(ii) The ventilation system shall be installed, tested and operational prior to the use hereby approved being taken up.*

*Should you wish to discuss the above, please do not hesitate to contact me on 0131 469 5160.*

#### *Addendum*

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

*NB. However, should all of the above conditions 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**

---



© Crown Copyright and database right 2013. All rights reserved. Ordnance Survey License number 100023420

**END**