

DECISION NOTICE AND REPORT OF HANDLING

Application address - 23 Jock's Lodge Edinburgh EH8 7AA

Application Ref. No - 14/03298/FUL

Review Ref No - 14/00159/REVREF

Review Lodged Date 19.12.2014

COPY

Scott Design.
71 Moira Terrace
Edinburgh
EH7 6SS

Mr S Ali.
29 Windsor Street
Edinburgh
EH7 5LA

Date: 22.01.2015

Your ref:

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS

**DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS
2013**

Alterations and change of use from hot food takeaway to a one apartment flat.

At 23 Jock's Lodge Edinburgh EH8 7AA

Application No: 14/03298/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 15 August 2014, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposals are contrary to Edinburgh City Local Plan Policy Ret 10 in respect of, Alternative Use of Shop Units - elsewhere in defined centres, as the property is located centrally within an otherwise commercial frontage, of the defined Jock's Lodge local centre, where the proposed residential use would be wholly inappropriate and detrimental to the future vitality and viability of that local retail centre.
2. The proposals are contrary to Edinburgh City Local Plan Policy Hou 5, as interpreted using the non-statutory Guidance for Businesses, in respect of Conversion to Housing, as the level of residential floor space, at 40 square metres, fails to provide the minimum residential floor space necessary to provide the quality and size of accommodation to the detriment of the future occupiers of the development.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-03, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposed change of use from a hot-food takeaway shop use to form a residential flatted property does not comply with the development plan and non-statutory guidelines and would adversely affect the vitality and viability of the defined local retail centre and would fail to provide the minimum level of amenity space sufficient for the future residential occupiers of the development.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact John Maciver directly on 0131 529 3918.

D R Leslie

David R. Leslie

Acting Head of Planning and Building Standards

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice review should be addressed to the City of Edinburgh Planning Local Review Body, G2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

Application for Planning Permission 14/03298/FUL

At 23 Jock's Lodge, Edinburgh, EH8 7AA

Alterations and change of use from hot food takeaway to a one apartment flat.

Item	Local Delegated Decision
Application number	14/03298/FUL
Wards	A14 - Craigentenny/Duddingston

Summary

The proposed change of use from a hot-food takeaway shop use to form a residential flatted property does not comply with the development plan and non-statutory guidelines and would adversely affect the vitality and viability of the defined local retail centre and would fail to provide the minimum level of amenity space sufficient for the future residential occupiers of the development.

Links

<u>Policies and guidance for this application</u>	LPC, CITD12, CITH5, CITR10, CITT4, NSG, NSBUS, NSP,
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Report of handling

Recommendations

1.1 It is recommended that this application be Refused for the reasons below..

Background

2.1 Site description

The application site comprises part of the ground floor of a two-storey terraced property, with a converted roof space, located on the northern side of Jock's Lodge, close to its eastern end and the traffic light controlled junction with Willowbrae Road, Portobello Road and Restalrig Road South.

Immediately to the eastern side of the building is an unadopted access to existing garage buildings to the rear. Above the application premises there are residential flatted properties, with door access immediately to the west of the existing door access to the application property. Either side, at ground floor level, there are retail shops, a public house and other commercial property uses.

2.2 Site History

The relevant site history is:

9 September 2005 - Planning permission was refused for a change of use from a retail shop (Class 1) to a hot-food takeaway (*sui generis* use) (Ref 05/02089/FUL).

31 May 2006 - An appeal to the Scottish Executive Inquiry Reporters Unit was upheld for the above change of use (Ref P/PPA/230/808).

17 November 2006 - An application for planning permission a part change of use and extension of the hot-food takeaway shop into an adjoining garage was withdrawn prior to any determination (Ref 06/04264/FUL).

Main report

3.1 Description Of The Proposal

The application seeks a change of use from a hot-food takeaway shop use to form a residential flatted property, including alterations to existing openings and the reinstatement of previously blocked up openings.

The property has a footprint of 51 square metres and an internal floor space of 40 square metres. It is proposed to subdivide the interior to provide a dual use living room and bedroom (21.4 square metres) to the front, a kitchen (9.1 square metres) to the rear and a bathroom (3.6 square metres) located centrally, all served off a new access door to the common stair serving the properties above.

The proposal also includes replacing the existing shop window and access door with two new timber framed windows, to the front elevation, and reopening three window openings in the eastern side elevation, one to serve the living room and two to serve the kitchen.

3.2 Determining Issues

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?

3.3 Assessment

To address these determining issues, it needs to be considered whether:

- (a) the principle of the proposals are acceptable in this location;
- (b) the proposed scale, form, design and materials will adversely affect the character and appearance of the existing building or the surrounding area;
- (c) the proposals affect road safety;
- (d) the proposals will result in an unreasonable loss of neighbouring amenity;
- (e) the proposals provided sufficient amenity for the future occupiers of the development;
- (f) the proposals have any equalities or human rights impacts; and
- (g) representations raised have been addressed.

a) The application property is a ground floor premises located within the Jock's Lodge local retail centre as defined within the Edinburgh City Local Plan. As such the change of use of the premises is subject to an assessment against the provisions of policy Ret 10 of the local plan.

The policy seeks to ensure that; the change of use would not result in four or more consecutive non-shop uses, and it is for an appropriate commercial or community use that would complement the character of the centre and would not be detrimental to its vitality and viability.

The existing use of the premises has already been accepted as a change away from retail use and therefore the question of consecutive non-shop uses is not relevant to this assessment.

However, with regard to the second element the proposed residential use is one that is specifically identified would not be permitted.

Residential use within a defined retail centre, at ground floor level, would not positively contribute to the role of the local centre and, therefore, would be detrimental to its vitality and viability.

Accordingly, as the property is located centrally within an otherwise commercial frontage, the proposed residential use would be wholly inappropriate within the defined local retail centre and would be detrimental to its future vitality and viability.

b) When considered separately from the principle of the proposed use, the proposed changes to the exterior of the building would neither be detrimental to nor a positive improvement to the overall character and appearance of the premises within the existing terrace or as part of the wider streetscape of the immediate area.

c) The change of use would not generate any additional traffic to the site over that of the existing hot-food takeaway use at present. As such the proposal would have no detrimental impact on matters of road safety at this location.

d) The residential use would result in a lesser impact on the existing amenity enjoyed by the occupants of the adjoining properties, especially the residential properties immediately above, than the existing use of the premises. As such the proposal would not result in any detrimental loss of neighbouring amenity in this location.

e) The premises provide 40 square metres of residential floor space with a single living and bedroom space principally illuminated by the existing shop front windows, directly onto the adjoining public footway, at what is a very busy junction.

That level fails to provide the minimum residential floor space of 52 square metres, as identified in the guidance, to provide the quality and size of accommodation required under the provisions of policy Hou 5 of the development plan.

Accordingly, the proposals would fail to provide the minimum level of amenity space sufficient for the future occupiers of the development.

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

g) No representations were received concerning this proposal.

The proposals do not comply with the relevant Local Plan policies or non-statutory guidelines and there are no material considerations which outweigh this conclusion.

Refusal is recommended, for the reasons stated.

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

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposals are contrary to Edinburgh City Local Plan Policy Ret 10 in respect of, Alternative Use of Shop Units - elsewhere in defined centres, as the property is located centrally within an otherwise commercial frontage, of the defined Jock's Lodge local centre, where the proposed residential use would be wholly inappropriate and detrimental to the future vitality and viability of that local retail centre.
2. The proposals are contrary to Edinburgh City Local Plan Policy Hou 5, as interpreted using the non-statutory Guidance for Businesses, in respect of Conversion to Housing, as the level of residential floor space, at 40 square metres, fails to provide the minimum residential floor space necessary to provide the quality and size of accommodation to the detriment of the future occupiers of the development.

Risk, Policy, compliance and governance impact

4.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

5.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Consultation and engagement

6.1 Pre-Application Process

There is no pre-application process history.

6.2 Publicity summary of representations and Community Council comments

Neighbour notification was carried out on 20 August 2014 and attracted no letters of representation.

Background reading / external references

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

David R. Leslie

Statutory Development

Plan Provision

Edinburgh City Local Plan - Urban Area and Jock's Lodge Local Centre.

Date registered

15 August 2014

Drawing numbers/Scheme

01-03

Scheme 1

Acting Head of Planning and Building Standards

Contact: John Maciver, Senior planning officer
E-mail:john.maciver@edinburgh.gov.uk Tel:0131 529 3918

Links - Policies

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

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

Policy Hou 5 (Conversion to Housing) sets criteria for assessing the change of use to residential.

Policy Ret 10 (Alternative Use of Shop Units – Elsewhere in Defined Centres) sets criteria for assessing the change of use of a shop unit to a non-shop use in defined centres (excluding core and primary frontages).

Policy Tra 4 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in supplementary planning guidance, and sets criteria for assessing lower provision.

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.

Non-statutory guidelines on 'PARKING STANDARDS' set the requirements for parking provision in developments.

Appendix 1

Consultations

No consultations undertaken.

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