

Development Management Sub Committee

Wednesday 3 June 2015

**Application for Planning Permission 14/02158/FUL
At 181 - 183 Canongate, Edinburgh, EH8 8BN
Alterations including installation of twin 150mm diameter
flue ducts to rear elevation and change of use of existing
shop premises (Class 1 Shops) to form restaurant (Class 3
Food and Drink). (Amended description)**

Item number	6.1
Report number	
Wards	A11 - City Centre

Summary

The proposals comply with the development plan and Edinburgh planning guidelines. The proposed change of use would not adversely affect the character of the Speciality Shopping Street or that of the locality. The proposed change of use would not result in adverse impacts to the amenity of neighbours or result in transport impacts. The proposed alterations would not adversely affect the character and appearance of the conservation area or the setting of listed buildings. The proposals would not raise equalities or human rights impacts.

Outcome of previous Committee

This application was previously considered by Committee on 20.05.2015.

This application was continued.

Links

[Policies and guidance for this application](#)

CITD11, CITD12, CITE4, CITE3, CITE6, CITCA1, CITR11, CITR12, NSG, NSLBCA, NSBUS, CRPOLD,

Report

Application for Planning Permission 14/02158/FUL At 181 - 183 Canongate, Edinburgh, EH8 8BN Alterations including installation of twin 150mm diameter flue ducts to rear elevation and change of use of existing shop premises (Class 1 Shops) to form restaurant (Class 3 Food and Drink). (Amended description)

Recommendations

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

Background

2.1 Site description

The application property comprises a double ground floor commercial unit within 4-5 storey tenemental blocks to the north side of Canongate. Residential properties are located to the upper floors.

Nos. 183-187 (Odd nos.) Canongate are category B listed (LB reference:-28434, Date of listing 14 December 1970). Dated 1677 but predominantly rebuilt, 1956 by Robert Hurd. No. 181 Canongate the east is unlisted.

The frontage to No.181 is setback from that on No.183, being situated within a covered arcade. A path leading to Gladstone Court to the rear is situated immediately to the east of No.181.

Both buildings feature a painted harl finish (cream and terracotta) to their rear elevations, with single storey outshot featuring pantiled roof.

The application property is located within a designated Speciality Shopping Street and features a mix of Class 1 retail uses, these interspersed with Class 3, Food and Drink uses, residential, office and public buildings.

The property lies in the Old Town Conservation Area and Edinburgh World Heritage Site.

2.2 Site History

30 July 1997 - Planning permission granted for change of use from unoccupied office to shop (Application reference;- 97/00978/FUL).

13 March 1996 - Permission granted for a temporary change of use from retail to office for approx. 6 months (Application reference;- 96/00008/CEC).

30 March 1994 - Permission granted for change of use from retail unit to offices (in retrospect) (Application reference;- 94/0377/FUL).

Main report

3.1 Description Of The Proposal

The application proposes a change of use to the ground floor commercial unit from Class 1 (Shops) to Class 3 (Food and Drink).

External alterations would comprise the installation of twin flue ducts (150mm diameter) to the rear elevation of the listed 183 Canongate, these rising from the roof of the single storey outshot to a position above the eaves of the main building. The rear outshot would house the proposed ventilation plant.

Minor internal alterations are identified within the listed interior of No.181, although these cannot be determined within the scope of this planning application.

No external changes are identified for the shopfronts or advertising.

3.2 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.

In considering whether to grant consent, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. 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?

3.3 Assessment

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

- a) the proposed change of use is acceptable;
- b) the proposal would be detrimental to neighbour amenity;
- c) the proposed alterations are acceptable and would not adversely affect the character or appearance of the conservation area or the setting of listed buildings;

- d) the proposals would result in transport impacts;
- e) the proposals raise equalities or human rights impacts; and
- f) that representations have been addressed.

a) Change of use

The application property lies within a Speciality Shopping Street as designated in the Edinburgh City Local Plan (ECLP). Policy Ret 11 states that applications for changes of use should consider whether the proposal would be to the detriment of its special shopping character, and where located within a predominantly commercial area whether the units would be compatible with the character of the area.

The section of frontage in which the application premises are situated comprises mainly Class 1 retail uses to the ground floors with residential uses above. A single Class 3 use is evident within the frontage with the Tolbooth Tavern public house situated to the east. Commercial uses form part of the established character of the wider street with Class 1 retail and Class 3 Food and Drink uses interspersed with residential uses, office and public buildings.

It is considered that the proposed introduction of a Class 3 food and drink use within this property would complement the mix of uses evident within the street and would not be to the detriment of its special shopping character. The proposed change of use would also maintain the premises for small business use and there is no clear justification to retain the unit in shop use to meet local needs. The proposal would therefore meet the requirements of ECLP Policy Ret 11, parts c) and d).

Policy Ret 12 states that the change of use of a shop unit or other premises to a licensed or unlicensed restaurant or café will not be permitted if it is likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti social behaviour to the detriment of living conditions for nearby residents. Impacts on the amenity and living conditions of neighbours are further addressed in section 3.3b) of the report. There are a range of Class 3 Food and Drink uses in the locality, including cafes, restaurants, public houses and hot food takeaways, which form part of its mixed use character. However, it is not considered that this proposed change of use would lead to an excessive concentration of such uses to the detriment of living conditions of nearby residents.

The nature of the proposal would be supported by ECLP Policy Ca 1 in that the development would maintain and enhance the attractiveness, vitality and viability of the city centre, and a mix of uses appropriate to the location of the site and surrounding area.

In summary, the proposed use would not be detrimental to the character of the speciality shopping street or the locality, would not result in an excessive concentration of such uses or be detrimental to the living conditions of nearby residents.

b) Residential Amenity

Environmental Assessment has commented on the proposals and reviewed the Noise Assessment submitted by the applicant. This document has considered the potential noise impacts from the operation of a Class 3 use, including the operation of the proposed ventilation plant.

The Noise Assessment has identified that noise attenuation measures such as insulation to the internal ceilings and ventilation plant would maintain acceptable levels of amenity to the residential properties above the application premises.

The proposed ventilation ducting would be placed on the rear elevation allowing cooking odours to be exhausted at roof level away from residential properties, this being similar to comparable situations across the city. The proposed arrangements for ventilation are considered acceptable.

The operation of a Class 3 use, including opening hours and the sale of alcohol would be controlled through the licensing regime. The application site is situated within the Central Area, which is characterised by a mix of uses including food and drink premises interspersed with commercial and residential properties.

It is not considered that the proposed nature of the Class 3 restaurant use would result in an unacceptable increase in noise, disturbance, on-street activity or anti social behaviour to the detriment of living conditions for nearby residents. The proposal would therefore meet the requirements of ECLP Policies Ret 12 and Des 11 in that they would not be detrimental to neighbourhood amenity and character.

It is recommended that prior to the use being taken up, the extract flue and ventilation system are fully operational and this matter will be controlled through condition. Measures relating to noise protection and the installation of ducting will be highlighted to the applicant through informative.

In summary, the proposed change of use and nature of the alterations would not be detrimental to the amenity of neighbours. An appropriate range of mitigation measures have been identified and the proposals are acceptable.

c) Conservation Area Character and Setting of Listed Buildings

The Old Town Conservation Area Character Appraisal identifies the following in relation to the application site;-

The spatial structure of the Old Town is a microcosm of urban development, reflecting the multiple layering of built heritage and responding to the drama of the site's topography and setting.

The survival of the little altered medieval 'herringbone' street pattern of narrow closes, wynds and courts leading off the spine formed by the Royal Mile.

The many important vistas and views in, out and within the area.

The stepped, and pitched angled roofscape articulated by narrow dormers, crow stepped gables, pediments, towers, spires, skews, chimney heads to provide interest.

The external alterations are limited to twin flue ducts to the rear elevation of the listed No. 183 Canongate. Whilst the rear elevation of the building is visible in views from the north including from the New Waverley development site, the presence of the proposed flues could be effectively mitigated through the use of an appropriate colour scheme to match that of the adjacent painted harled finish. This matter could be dealt with by condition. Although the highest point of the flues would project above the level of the eaves, this would not be detrimental to the architectural features of the listed building or the character of the roofscape.

No proposals for external signage have been identified as part of the application. The requirement for additional permissions, e.g. Advertisement Consent, will be highlighted through an informative.

The nature of the proposal would accord with Council guidance and would not adversely affect the setting of the listed building or the character and appearance of the conservation area.

d) Transport

No dedicated parking is identified as part of the proposal. However, it is not considered that the nature of the proposed Class 3 use would generate additional levels of traffic. The area is also subject to on-street parking restrictions, including single yellow lines and controlled parking bays.

Private parking spaces and service access are also available in Gladstone Court to the rear of the building.

The proposed change of use would not result in adverse transport impacts.

e) Equalities and Human Rights

The proposals would not raise equalities or human rights issues.

f) Representations

Material considerations

- Erosion of retail character and over provision of food and drink uses- addressed in section 3.3a) of the report.
- Increase in noise and disturbance to residents arising from proposed restaurant use, particularly arising from evening trading - addressed in sections 3.3a) and b) of the report.
- Parking issues, increase in traffic levels and congestion -addressed in section 3.3d) of the report.
- Loss of amenity to residents arising from plant noise, cooking odours and waste storage - addressed in section 3.3b).

Non-material considerations

- Drainage issues, with problems exacerbated by proposed commercial cooking and waste process - not a material planning consideration.

Conclusion

In conclusion, the proposed change of use would not adversely affect the character of the Speciality Shopping Street or that of the locality or result in adverse impacts to the amenity of neighbours. The proposed alterations would not adversely affect the character and appearance of the conservation area or the setting of listed buildings.

Addendum to Assessment

The application was considered at the Development Management Sub-Committee on 20 May 2015.

Committee continued the application.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. Prior to the use being taken up, the extract flue and ventilation system, capable of 30 air changes per hour, as show on drawing no. 03 dated May 2014 is to be implemented.
2. That the finish to the external flue ducts be coloured to match that of the adjacent rear elevation. Details to be submitted to and agreed by the Planning Authority in writing prior to the commencement of works on site.

Reasons:-

1. In order to safeguard the amenity of neighbouring residents and other occupiers.
2. In order to safeguard visual amenity.

Informatives

It should be noted that:

1. The works 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. 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.
4. The following noise protection measures to the proposed unit, as defined in the Ethos 'Environmental Noise Assessment' report (Ref P6075), dated January 2015:

Ceiling treatments

- A suspended metal frame independent ceiling with at least a 50mm mineral wool quilt. This shall be hung on resilient fixings to provide 8-12dB airborne and 8-15dB impact sound insulation improvements.
- Only small cable services should penetrate through the ceiling; these and perimeter gaps should be sealed with an acoustic sealant.
- Down-lighters installed in the suspended ceiling, they must be installed with proprietary sound insulating backing boxes/hoods.
- Recessed ceiling loudspeakers must not be located within the sound insulating ceiling.
- Doors must be fitted with closers to ensure that they cannot slam.
- Worktops, shelving, cookers and other fitments such as the dishwasher must be freestanding rather than fixed to or in contact with walls. Glass-washers will need to be mounted on anti-vibration pads.
- A low-noise hand drier should be provided within the WC.

Plant & Flue Treatments

- An acoustic enclosure in a form of an at least 6mm plywood with access door will be built around the fan.
- The two 150mm flues will be exiting through the roof of the lean to and must be fixed to the elevation wall every two meters.
- The supply fan is to be mounted on the wall the stairwell at the lean to and ducted through the roof. This fan needs to be boxed in at least a 6mm plywood duct enclosure.
- The fan shall have an attenuator fitted and the duct which must be lined with at least 25mm acoustic duct lining to the termination point.
- The flue pipes must be isolated from the structure via anti-vibration mounts. The flue pipes must be isolated from the fans via anti-vibration gaiters. They must not bridge any of the anti-vibration measures.

All the above mitigation measures shall be carried out in full and completed prior to the development being occupied.

5. It should be noted that when designing the exhaust ducting, good Heating, ventilation and Air Conditioning (HVAC) duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system. It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance.
6. This application relates to a flatted building. This planning permission does not affect the legal rights of any other parties with an interest in the building. In that respect, the permission does not confer the right to carry out the works without appropriate authority.
7. This permission relates to planning permission only. This does not negate the requirement for other permissions which may be required. e.g. Listed Building Consent, Advertisement Consent.

Financial impact

4.1 The financial impact has been assessed as follows:

There are no financial implications to the Council.

Risk, Policy, compliance and governance impact

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

Equalities impact

6.1 The equalities impact has been assessed as follows:

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

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

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

Consultation and engagement

8.1 Pre-Application Process

There is no pre-application process history.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 9 June 2014 and four letters of representation were received including the Old Town Community Council and a Ward Councillor. These comprised four letters of objection and raise the following issues;-

- Increase in noise and disturbance to residents arising from proposed restaurant use, particularly arising from evening trading;
- Parking issues, increase in traffic levels and congestion;
- Loss of amenity to residents arising from plant noise, cooking odours and waste storage; and
- Drainage issues, with problems exacerbated by proposed commercial cooking and waste process.

The Old Town Community Council has raised the following issues;-

- Canongate identified in the Edinburgh City Local Plan as a Speciality Shopping Street, which is subject to protection through ECLP Policy Ret 11, Alternative Uses of Shop Units in Other Locations;
- The proposal would erode the retail character of Canongate and the viability of few remaining retail shops;
- Overprovision of food and drink in the immediate area, which has eroded the retail offer; and
- Class 3 use will generate high rental and rateable, and make return to retail use unlikely.

Background reading/external references

- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Edinburgh City Local Plan and Rural West Edinburgh Local Plan](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

Statutory Development

Plan Provision

Edinburgh City Local Plan - Central Area, Speciality Shopping Street

Date registered

30 May 2014

Drawing numbers/Scheme

01-03,

Scheme 1

David R. Leslie

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Links - Policies

Relevant Policies:

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

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

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

Policy Env 3 (Listed Buildings - Setting) identifies the circumstances in which development within the curtilage or affecting the setting of a listed building will be permitted.

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

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

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

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.

The Old Town Conservation Area Character Appraisal emphasises the survival of the original medieval street pattern; the wealth of important landmark buildings; the survival of an outstanding collection of archaeological remains, medieval buildings, and 17th-century town houses; the consistent and harmonious height and mass of buildings; the importance of stone as a construction material for both buildings and the public realm; the vitality and variety of different uses; and the continuing presence of a residential community.

Appendix 1

Application for Planning Permission 14/02158/FUL At 181 - 183 Canongate, Edinburgh, EH8 8BN Alterations including installation of twin 150mm diameter flue ducts to rear elevation and change of use of existing shop premises (Class 1 Shops) to form restaurant (Class 3 Food and Drink). (Amended description)

Consultations

Environmental Assessment

The application proposes changing the use of a retail unit into a use class 3 in the basement and ground floor of a listed building. The kitchen serving the proposed restaurant will be located in the basement. Residential neighbours are located on the first and second floor above the proposed restaurant.

Environmental Assessment had raised concerns regarding the potential adverse impacts this use may have on the neighbouring residential properties. The proposed use as a class 3 unit has potential to introduce more noise and odours if not mitigated.

The applicant has submitted supporting noise and ventilation reports which have demonstrated how noise and odours can be mitigated to a satisfactory level ensuring that neighbouring residential amenity is not adversely affected. This will be in the form of various acoustic treatments being carried out to the, ceiling, and plant along with commercial ventilation ducting terminating above ridge level via a new external duct. Environmental Assessment recommends that conditions are attached to ensure that these measures are carried out.

Therefore Environmental Assessment offers no objection to this application subject to the following conditions;

The following noise protection measures to the proposed unit, as defined in the Ethos 'Environmental Noise Assessment' report (Ref P6075), dated January 2015:

Ceiling treatments

- o A suspended metal frame independent ceiling with at least a 50mm mineral wool quilt. This shall be hung on resilient fixings to provide 8-12dB airborne and 8-15dB impact sound insulation improvements.*
- o Only small cable services should penetrate through the ceiling; these and perimeter gaps should be sealed with an acoustic sealant.*

- o Down-lighters installed in the suspended ceiling, they must be installed with proprietary sound insulating backing boxes / hoods.*
- o Recessed ceiling loudspeakers must not be located within the sound insulating ceiling.*
- o Doors must be fitted with closers to ensure that they cannot slam.*
- o Worktops, shelving, cookers and other fitments such as the dishwasher must be freestanding rather than fixed to or in contact with walls. Glass-washers will need to be mounted on anti-vibration pads.*
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Plant & Flue Treatments

- o An acoustic enclosure in a form of an at least 6mm plywood with access door will be built around the fan.*
- o The two 150mm flues will be exiting through the roof of the lean to and must be fixed to the elevation wall every two meters.*
- o The supply fan is to be mounted on the wall the stairwell at the lean to and ducted through the roof. This fan needs to be boxed in at least a 6mm plywood duct enclosure.*
- o The fan shall have an attenuator fitted and the duct which must be lined with at least 25mm acoustic duct lining to the termination point.*
- o The flue pipes must be isolated from the structure via anti-vibration mounts. The flue pipes must be isolated from the fans via anti-vibration gaiters. They must not bridge any of the anti-vibration measures.*

All the above mitigation measures shall be carried out in full and completed prior to the development being occupied.

Odours

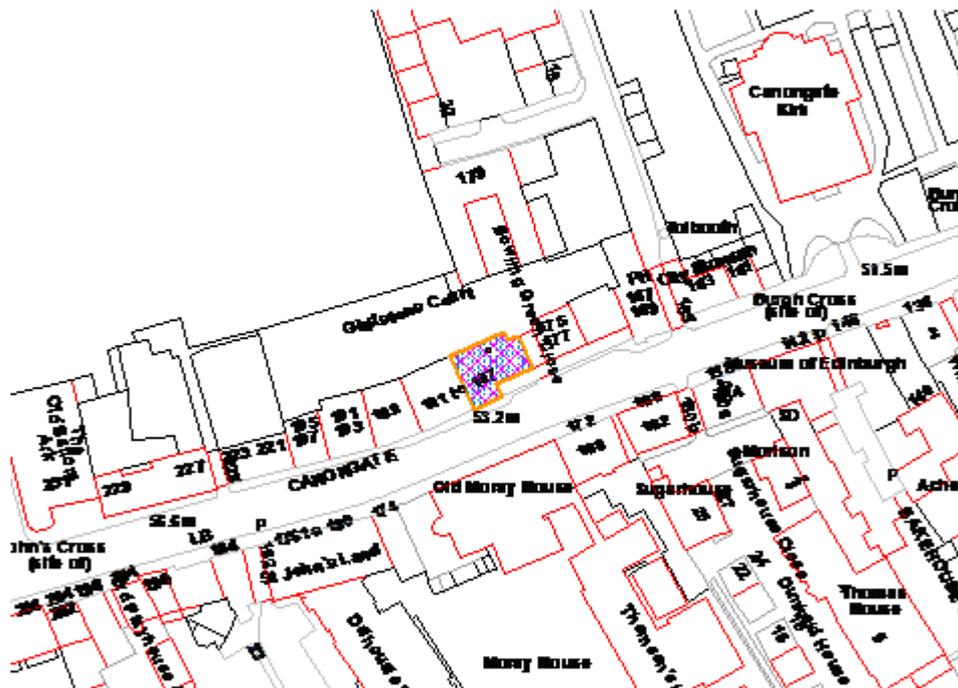
Prior to the use being taken up, the extract flue and ventilation system, capable of 30 air changes per hour, as show on drawing no. 03 dated May 2014 should be implemented.

Informative

It should be noted that when designing the exhaust ducting, good Heating, ventilation and Air Conditioning (HVAC) duct practice should be implemented to ensure that secondary noise is not generated by turbulence in the duct system.

It is recommended that the HVAC Engineer employed to undertake the work, undertakes the installation with due cognisance of the Chartered Institute of Building Services Engineers (CIBSE) and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidance.

Location Plan



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