

# Development Management Sub Committee

Wednesday 12 August 2015

**Application for Planning Permission 15/02440/FUL  
At 60 Gilmerton Dykes Street, Edinburgh, EH17 8LQ  
Part change of use from Convenience shop to Convenience  
shop, hot food takeaway and separate class one shop, plus  
alterations to frontage.**

<b>Item number</b>	4.4
<b>Report number</b>	
<b>Wards</b>	A16 - Liberton/Gilmerton

## Summary

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The proposals comply with development plan policies and non-statutory guidelines. They will improve the appearance of the building and will have an acceptable impact upon residential amenity. Subject to a condition limiting times of opening and the installation of appropriate ventilation, the proposal will not cause undue loss of residential amenity.

## Links

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[Policies and guidance for this application](#)      LPC, CITR12, CITH8, NSG, NSBUS,

# Report

## **Application for Planning Permission 15/02440/FUL At 60 Gilmerton Dykes Street, Edinburgh, EH17 8LQ Part change of use from Convenience shop to Convenience shop, hot food takeaway and separate class one shop, plus alterations to frontage.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The existing property is a large, flat-roofed, single-storey structure containing a convenience store. It has a lay-by along its frontage providing customer parking and there is a service yard on its west side.

The property lies at an interface between housing (largely two storey houses) and a small group of non-residential uses, which, along with this shop, contain a public library and Gilmerton Child and Family Centre.

Ground levels rise to both east (to the library) and south (to further housing to the rear of the unit).

The adjacent road is an arterial road served by public transport.

The property faces over the road to three storey flats set behind a wide landscape belt.

#### **2.2 Site History**

20 July 2007 - partial change of use of east section approved to create takeaway pizza facility (07/01030/FUL).

17 June 2008 - partial change of use of east section approved to create takeaway pizza facility, plus a hairdresser (08/00938/FUL).

15 July 2009 - partial change of use of east section approved to create hot food takeaway (09/00686/FUL).

## **Main report**

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### **3.1 Description Of The Proposal**

The proposal involves the creation of two new units in part of the building currently used as storage for the existing convenience store. One unit (of 57sqm) will continue to be for retail purposes, and therefore does not require planning permission for the use. The second unit (also 57sqm) is proposed as a hot food takeaway and it is this element which requires assessment. There are no changes proposed in relation to the operational floorspace of the existing convenience store.

The hot food takeaway element would operate from 8am until 10pm.

Ventilation for the takeaway element is placed within a stepped area on the existing flat roof, achieving 30 air changes per hour.

Physical alterations to the frontage (all of which require planning permission) involve the creation of two standard shopfronts to the eastern side, within an existing area of blank rendered frontage.

### **Supporting Statement**

A Design Statement including full ventilation details was submitted with the proposal. This is available to view on the Planning and Building Standards online services.

### **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, the Committee needs to consider whether:

- a) the proposed use as hot food takeaway is acceptable in principle;
- b) the impact on neighbouring residents is acceptable;
- c) the scale, form and design are acceptable;
- d) road safety considerations are addressed;
- e) public comments are addressed; and
- f) equality and human rights issues are considered.

#### a) Acceptability of the Proposed Hot Food Takeaway Function in Principle

Policy Ret 12 of the Edinburgh City Local Plan (ECLP) advises that hot-food takeaway uses are acceptable as long as not causing undue loss of amenity to neighbouring residents, and providing that there is not an excessive concentration of such uses. In addition, non-statutory Guidance for Businesses also seeks to protect existing retail amenity.

The property has three previous consents for hot food takeaway use, each in slightly different configurations. These have all lapsed.

Although the unit is broadly within a housing area, it is separated from the closest rear gardens of housing by the remaining rear storage to the convenience store. The relationship between neighbouring gardens and the closest part of the site will remain unaltered.

The unit is solely accessed from the main road and does not share service access with the existing retail unit. The proposed unit will be serviced direct from the main road and will not impact in any way upon the existing service area, which adjoins neighbouring gardens. As the unit is relatively distant and detached from residential uses, the potential for noise, litter and smells is mitigated.

Environmental Assessment has no objections to the proposal, subject to the hours being as per the applicant's operational plan (8am until 10pm).

The closest existing takeaway function lies over 400m westward. The proposed use on the application site does not represent an over-concentration of such uses in the area.

The proposed use as a hot-food takeaway is considered acceptable.

As the existing retail unit is retained, no retail loss arises in policy terms. The retail element does not require to be assessed.

#### b) Impact of Ventilation upon Residential Amenity

The ventilation is discretely located on the roof and sufficiently distant from residential properties as to not give rise to any concerns regarding loss of amenity due to odours.

#### c) Impact of the Physical Alterations

Two new shopfronts are added to the east side of the existing unit: one for the takeaway; one for an additional shop unit.

The physical alterations to the frontage are acceptable.

Ventilation is placed at a step in the roof form, negating any visual impact.

#### d) Traffic and Road Safety

The building faces a major local arterial road, which is also a public transport route.

The road has capacity for more vehicles and any additional vehicle numbers would be insignificant in relation to overall traffic numbers.

The existing shop has a lay-by along its frontage with capacity for additional vehicles. This area will serve customers of the take-away unit without hinderance to traffic flows.

#### e) Public Comments

The proposal attracted a petition with 30 signatures from local residents.

#### **Material Comments**

- increased traffic - addressed in section 3.3 d) of the Assessment.
- increased litter - addressed in section 3.3 a) of the Assessment.
- increased noise and smells - addressed in section 3.3 a) of the Assessment.
- there are already sufficient take-aways in the area - addressed in section 3.3 a) of the Assessment.

#### **Non-material Comments**

- speculation that the use would indirectly cause additional damage to boundary fencing - the new unit is not connected to the boundary fence.
- increased pedestrian traffic impacts upon child safety in the area - this is not a planning consideration.
- the broken fence would give young children access to the main road - the fence is not connected to the hot food takeaway.
- the use will attract teenagers - this is not a planning consideration.
- local houses were purchased on the basis of not having hot food takeaways adjacent - there is no presumption in any area of the city that areas will not change.

#### **Community Council**

No comments received.

#### f) Equalities and Human Rights

The proposals raise no equalities or human rights concerns.

#### Conclusion

The proposals comply with development plan policies and non-statutory guidelines. They will improve the appearance of the building and will have an acceptable impact upon residential amenity. Subject to a condition limiting times of opening and the installation of appropriate ventilation, the proposal will not cause undue loss of residential amenity.

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

### **3.4 Conditions/reasons/informatives**

#### **Conditions:-**

1. The hot-food takeaway use shall not be implemented until a ventilation system is installed and operational in accordance with the specification given on document 'L(-)02A Photos Design Ventilation Statement'.
2. The hours of operation of the hot food takeaway shall be restricted to 08:00 to 22:00 daily.

#### **Reasons:-**

1. In order to safeguard the amenity of neighbouring residents and other occupiers.
2. 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. 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.
3. 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.

### **Financial impact**

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#### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

### **Risk, Policy, compliance and governance impact**

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

### **Equalities impact**

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#### **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**

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### **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**

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

There is no pre-application process history.

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

A petition was received from Kilngate Brae and Gilmerton Dykes residents. This contained 30 signatures.

The majority of objections related to the existing shop premises and its operations rather than the proposed use. Issues relating to the takeaway use were:

- increased traffic.
- increased litter.
- increased noise and smells.
- there are already sufficient take-aways in the area.

Non-material issues relating to the proposed takeaway were:

- speculation that the use would indirectly cause additional damage to boundary fencing.
- increased pedestrian traffic impacts upon child safety in the area.
- the broken fence would give young children access to the main road.
- the use will attract teenagers.
- local houses were purchased on the basis of not having hot food takeaways adjacent.

## **Background reading/external references**

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- 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**

The property lies within the Urban Area as shown in the Edinburgh City Local Plan.

**Date registered**

27 May 2015

**Drawing numbers/Scheme**

1,2,3a,4a,5a,

Scheme 2

**David R. Leslie**

Acting Head of Planning and Building Standards

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**Links - Policies**

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**Relevant Policies:**

**Relevant policies of the Edinburgh City Local Plan.**

Policy Ret 12 (Food and Drink Establishments) sets criteria for assessing the change of use to a food & drink establishment.

Policy Hou 8 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

**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

## **Application for Planning Permission 15/02440/FUL At 60 Gilmerton Dykes Street, Edinburgh, EH17 8LQ Part change of use from Convenience shop to Convenience shop, hot food takeaway and separate class one shop, plus alterations to frontage.**

### **Consultations**

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#### **Environmental Assessment**

The applicant proposes the partial change of use of an existing large class 1 property to form two additional smaller units; one class 1 and one hot food takeaway. The property is located on a main road in a residential area, the nearest other buildings are the dwellings (within approximately 10m) to the south. Due to the topography in this location, the adjacent dwellings sit slightly higher than the application premises.

Environmental Assessment has concerns over this proposal to bring a hot food takeaway to a predominantly residential location as the additional noise generated by late night operations can lead to a negative impact on amenity. However, these concerns are allayed somewhat as the current shop is open until 22:00 daily without any record of noise complaints. The agent has requested similar hours of operation of 08:00 to 22:00 daily for this proposal which Environmental Assessment supports; a condition is recommended.

As hot food takeaways can have a negative impact on amenity due to odour production from cooking, Environmental Assessment seeks to ensure that minimum standards of ventilation of the kitchen area will be achieved. The agent has submitted information which confirms these standards will be met. In addition, all plant equipment associated with the operation of this ventilation system are to be located internally, therefore, the likelihood of associated noise contributing to a reduction in amenity is unlikely.

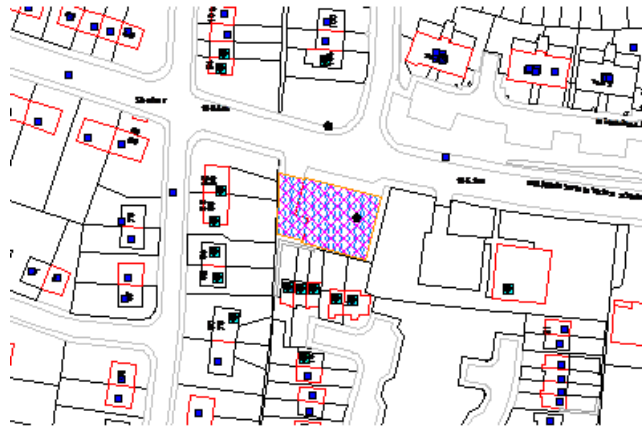
Environmental Assessment has no objection to this proposed development, subject to the following conditions:

#### Conditions

1. The performance of the ventilation system shall be in accordance with the specification given on document 'L(-)02A Photos Design Ventilation Statement' and should be implemented in full before the first use of the property as a hot food takeaway.
2. The hours of operation of the hot food takeaway and class 1 unit shall be restricted to 08:00 to 22:00 daily.

# Location Plan

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