

**Full Planning Application 05/04130/FUL
at
80 Restalrig Road South
Edinburgh
EH7 6JB**

**Development Quality Sub-Committee
of the Planning Committee**

1 Purpose of report

To consider application 05/04130/FUL, submitted by Ms Ross. The application is for: **Change of use to form hot food take-away from shop, (take-away use with restricted opening hours)**

It is recommended that this application be **GRANTED** subject to the conditions in Appendix B.

2 The Site and the Proposal

Site description

The application site comprises a ground floor unit, formerly in retail use, within a four storey tenement block.

The surrounding area is largely residential, comprising similar tenement blocks on both sides of the street. There is a public house and garage opposite, and a small group of shops at the opposite end of the street.

Site history

There is no relevant planning history for this site.

Description of the Proposal

The application is for a change of use of a vacant shop unit (approximately 25 square metres) to hot food takeaway. Ventilation is to be internal, terminating at chimney level. No external alterations are proposed at present.

3 Officer's Assessment and Recommendations

DETERMINING ISSUES

The determining issues are:

- 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 proposals will adversely affect the character or visual amenity of the area;
- b) There will be any significant impact on residential amenity;
- c) There are any traffic or road safety implications;
- d) The loss of the retail unit will have any impact on local amenity in terms of community need.

a) No alterations to the exterior of the building are proposed within this application. There is no impact on the character of the building or the visual amenity of the surrounding area.

b) The proposed hot food takeaway is not located on a busy main thoroughfare or shopping centre with a high level of non-residential use. However, as the proposal is for limited opening hours (8am to 4pm), with no evening or Sunday operation, the effect on residential amenity is not likely to be significant. This matter, and the control of delivery hours, is to be controlled by condition.

The applicant has demonstrated that the premises can be effectively ventilated with no significant impact on surrounding residential amenity. Environmental & Consumer Services has no objection, subject to standard conditions.

The existence of other hot food takeaway establishments in the vicinity is noted. The proposal does not however lead to an over concentration of such uses, particularly given the limited opening hours.

c) The street is relatively narrow, but the proposed use is unlikely to result in any significant impact on traffic or parking. Transport has not objected to the proposal.

d) The unit is not in a protected shopping frontage. Several convenience stores are closeby, and Meadowbank Shopping Park is approximately 500 metres distant.

There is no justification for retaining the retail nature of the unit in terms of community need.

In conclusion, the proposals comply with the relevant Local Plan Policy H7 (Housing Amenity), as the proposal is not likely to result in significant erosion of residential amenity. The breach of Non-statutory guidelines on Restaurants, Cafes and Hot Food Shops is, under the specific circumstances of the application, not sufficient to justify refusal.

A temporary consent is not appropriate in this instance, due to the substantive nature of the works required to facilitate the permission.

There are no material considerations which outweigh this conclusion.

It is recommended that the Committee approves this application, subject to conditions relating to neighbouring residential amenity and limited opening/delivery hours.

Alan Henderson

Alan Henderson
Head of Planning and Strategy

Contact/tel	Michael Paton -Mon, Tues, Thurs, Friday (not Wednesday) on 0131 529 3902 (FAX 529 3706)
Ward affected	38 - Restalrig
Local Plan	North East Edinburgh Local Plan
Statutory Development Plan Provision	Housing and Compatible Uses
Date registered	9 December 2005
Drawing numbers/ Scheme	01-02 Scheme 1

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 sarah.bogunovic@edinburgh.gov.uk

Application Type Full Planning Application
Application Address: 80 Restalrig Road South
Edinburgh
EH7 6JB
Proposal: Change of use to form hot food take-away from shop, (take-away use with restricted opening hours)
Reference No: 05/04130/FUL

Consultations, Representations and Planning Policy

Consultations

Environmental Services

This application is for a hot food take-away use in a relatively quiet, residential street. The application premises are situated directly beneath, adjacent and opposite to occupied housing.

This Department would generally not be in support of a proposal for such a use in a predominantly residential location, due to the high risk of amenity loss to neighbouring residents from a number causes, and in particular from street noise and disturbance occurring in the evening and night-time periods.

However, the operational aspects of this proposal are atypical of the pattern of use normally associated with a hot food take-away, where trading hours are usually during the most noise-sensitive evening and night-time periods, when the risk of disturbance to local residents is likely to be at its greatest.

In this instance, the applicant wishes to operate the business between the hours of 8am and 4pm, Monday - Saturday, serving mainly the morning and lunch-time trade periods. This Department's initial concerns have been raised with the applicant, who is willing to accept a condition limiting operation to the days and times indicated.

The days and times of deliveries to the premises will also require to be controlled in order to minimise the risk of noise disturbance in the early morning from deliver operations etc. This has been discussed with the applicant, who accepts the need for an appropriate condition restricting delivery times.

Mechanical ventilation proposals for the cooking area require to meet this Department's recommendations, both in terms of noise transmission / protection and also for odour control, whilst the internal structure and finishes require to be designed to ensure operational noise is also adequately controlled. Again, appropriate conditions are recommended.

Consequently, this Department does not object to this application, subject to a strong recommendation that the following conditions being attached to any consent:

1. *AM03C The sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the application premises is audible in any neighbouring living apartment. This to apply to all areas within the application premises where operational noise, including noise associated with patrons, is likely to be generated.*
2. *AM10C All music, amplified or otherwise, shall be controlled so as to be inaudible within any neighbouring premises.*
3. *AM12C The design, installation and operation 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.*
4. *AM21C The kitchen shall be ventilated by a system capable of achieving 30 air changes per hour, and the cooking effluvia shall be ducted to a suitable exhaust point to ensure that no cooking odours escape or are exhausted into any neighbouring premises, all to the satisfaction of the Head of Planning.*
5. *AM22C The approved ventilation system shall be installed and tested for the escape of odours, to the satisfaction of the Head of Planning, prior to the use hereby approved being taken up.*
6. *LI07C Hours of operation of the take-away business shall be restricted to between 08.00hrs and 16.00hrs Monday to Saturday. No operation shall be permitted on a Sunday.*
7. *LI08C Deliveries to the premises shall be restricted to between 07.00hrs and 19.00 hrs Monday to Saturday. No deliveries shall be permitted on a Sunday.*

Transport

No objections.

Representations

It has been certified that neighbours were notified, and the application was advertised (Article 7) on 23 December 2005.

Councillor Aitken has objected on grounds of overprovision, litter, noise, traffic and road safety.

Ten letters of objection from local residents have been received. The grounds are noise, anti-social behaviour, smell, traffic, litter, additional bins, and overprovision of such facilities in the area.

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

North East Edinburgh Local Plan - The site is within an area allocated for Housing and Compatible Uses, where existing residential character and amenities are to be safeguarded.

Relevant Policies:

Policy H7 (HOUSING AMENITY) establishes a presumption against new development and changes of use likely to introduce increased levels of traffic or activity to the detriment of residential amenity or the reasonable prospects of further residential development where this is an objective of the Local Plan.

Policy S6 (PROTECTION OF SHOPPING USES - NEIGHBOURHOOD NEED) seeks the retention of existing shopping facilities in shopping use where there is a clear neighbourhood need.

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.

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Conditions/Reasons associated with the Recommendation

Recommendation

It is recommended that this application be **GRANTED** subject to the conditions below.

Conditions

1. The development hereby permitted shall be commenced no later than five years from the date of this consent.
2. The sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the application premises is audible in any neighbouring living apartment.
3. All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.
4. 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.
5. The kitchen shall be ventilated by a system capable of achieving 30 air changes per hour, and the cooking effluvia shall be ducted to a suitable exhaust point to ensure that no cooking odours escape or are exhausted into any neighbouring premises, all to the satisfaction of the Head of Planning & Strategy.
6. The approved ventilation system shall be installed and tested for the escape of odours to the satisfaction of the Head of Planning & Strategy, prior to the use hereby approved being taken up.

7. The hours of operation shall be restricted to 8am to 4pm, Monday to Saturday, with no operation permitted on a Sunday.
8. Deliveries to the premises shall be restricted to between 7am and 7pm Monday to Saturday, with no deliveries permitted on a Sunday.

Reasons

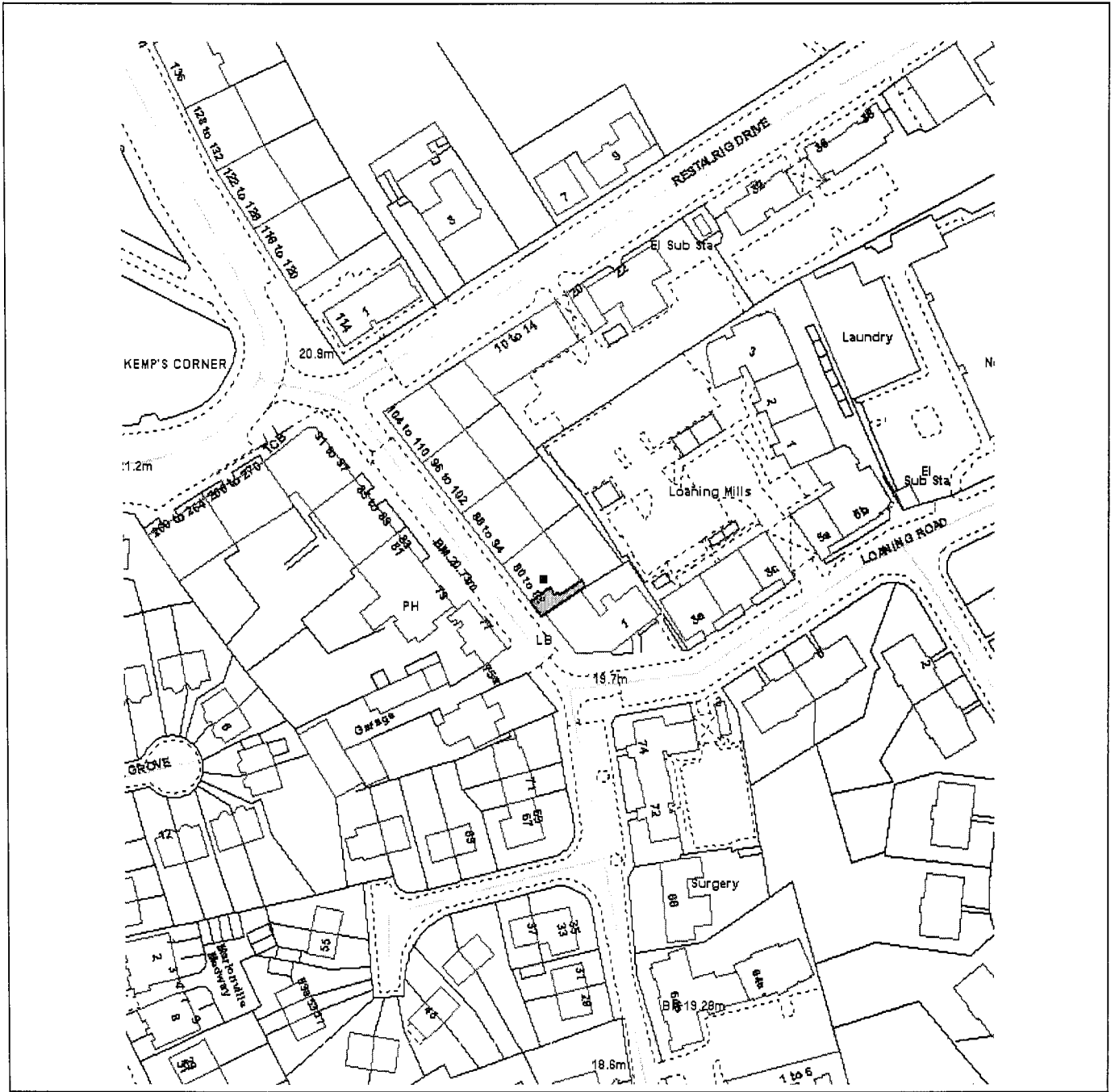
1. In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
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8. In order to safeguard the amenity of neighbouring residents and other occupiers.

INFORMATIVES

It should be noted that:

1. This consent is for change of use only. Any material alterations to the exterior of the building will require further planning permission.

End



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PLANNING APPLICATION

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THE CITY OF EDINBURGH COUNCIL			
THE CITY DEVELOPMENT DEPARTMENT- PLANNING & STRATEGY			