

**Full Planning Application 04/03990/FUL  
at  
10 Gilmerton Dykes Street  
Edinburgh  
EH17 8JX**

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

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**1 Purpose of report**

To consider application 04/03990/FUL, submitted by A Voon. The application is for: **Change of use to hot-food take-away (as amended)**

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

**2 The Site and the Proposal**

**Site description**

The property is a vacant shop in small local parade of 5 shop units, including 2 general stores, a baker and a hairdresser. The parade is in a free-standing, three-storey block with two floors of flats on the upper levels. The building has a service lay-by in front and faces on to a main road (B701) and bus route. There is also a rear service lane separating the building from allotments and open space to the south.

The building is of 1950s date and has a plain style with a gabled roof and finished in grey roughcast. The shopfronts are also of straightforward design.

The wider area comprises semi-detached and four-in-a-block housing, also of post-war date.

## **Site history**

There is no relevant planning history for this site.

## **Description of the Proposal**

### **Scheme 3**

It is proposed to change the use of a vacant shop to hot-food take-away. The proposed hours of use are 4.30 pm -10.30 pm.

Details of a four-stage fume filtration system have been submitted. The extract system will be discharged at a point 2.25 metres high located on the blank gable elevation of the building.

No shopfront alterations are proposed.

### **Schemes 1 & 2**

The previous schemes included an external flue (alternative designs) attached to the gable of the building up to chimney-head level.

## **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 the determining issues, the Committee needs to consider whether the proposal

- a) is acceptable in the shopping frontage
- b) will give rise to traffic congestion,
- c) infringes residential amenities and
- d) is in keeping with the appearance of its surroundings.

a) The property is in a small parade of five shops and is not in a protected retail frontage. The group includes two grocer's shops and a baker's and the change to non-retail use (previously a butcher) will not detract significantly from local retail provision or the character of the parade.

b) There is a lay-by in front of the building and on-street parking is not intensive in the vicinity. The proposal is unlikely to give rise to serious parking difficulties.

c) The premises comprise an end unit in a relatively isolated block on a main road frontage and close to a junction. There is a lay-by in front of the building with open land to the south and east. The potential for giving rise to noise and disturbance in the wider area is therefore limited. However, in order to ensure that nuisance is avoided during the night, it is recommended that opening hours be restricted to between 9 am and 11 pm. There are currently no servicing restrictions on the parade and it would therefore be unreasonable to limit such activity in respect of this specific unit.

There are two floors of flats above the commercial unit. The applicant has submitted a detailed ventilation system which meets Environmental & Consumer Services standards. However, the Department recommends that a number of conditions be imposed to ensure that the operation of the take-away will not give rise to nuisance from fumes, noise or vibration and to ensure proper maintenance of the mitigation measures.

The question of fire safety is dealt with under separate legislation and is not a planning issue.

The revised scheme (omission of flue) does not involve ownership issues.

d) The proposed external vent on the gable will not materially affect the appearance of the building.

In conclusion, the proposal is not contrary to retail policies while the use of appropriate conditions should safeguard neighbouring amenities.

It is recommended that the Committee approves this application, subject to conditions limiting the hours of use and requiring compliance with noise and ventilation standards. A temporary two-year consent is proposed in order to ensure that the necessary amenity safeguarding measures are implemented.

Alan Henderson

**Alan Henderson**  
Head of Planning and Strategy

<b>Contact/tel</b>	Ian Smith on 0131 529 3555
<b>Ward affected</b>	56 - Gilmerton
<b>Local Plan</b>	South East Edinburgh Local Plan
<b>Statutory Development Plan Provision</b>	Urban Area
<b>Date registered</b>	10 November 2004
<b>Drawing numbers/ Scheme</b>	07-10 Scheme 3

**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](http://www.edinburgh.gov.uk/planning).

If you require further information about this application you should contact the following Principal Planner, Graham Dixon 013 529 3519. Email: [graham.dixon@edinburgh.gov.uk](mailto: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](mailto:gavin.king@edinburgh.gov.uk) or [sarah.bogunovic@edinburgh.gov.uk](mailto:sarah.bogunovic@edinburgh.gov.uk)

**Application Type** Full Planning Application  
**Application Address:** 10 Gilmerton Dykes Street  
Edinburgh  
EH17 8JX  
**Proposal:** Change of use to hot-food take-away (as amended)  
**Reference No:** 04/03990/FUL

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## Consultations, Representations and Planning Policy

### Consultations

#### Environmental Services

*Following further and lengthy discussions with the applicant and his agents, in respect of kitchen extract ventilation proposals, this Department now offers the following comments and advice on the application.*

*The applicant has submitted a series of options for providing an alternative kitchen ventilation system, following the refusal of the owner of the residential property directly above the application premises to permit attachment of an external high-level discharge flue to the upper section of the east gable.*

*A number of alternatives were considered by the applicant, including the use of electrostatic and ultra-violet odour reduction systems. These have variable performance in high-odour cooking situations, and this Department has regularly recommended against them.*

*The alternative option that offers the most effective odour control is a high-specification 3-stage physical filtration and activated carbon odour reduction system. The applicant has sourced a system supplier and installer, and full details of filtration capabilities and efficiencies have been requested by this Department. These have been discussed fully with the manufacturer, installer and applicant.*

*As with any mechanical system, continuing operational effectiveness is highly dependent on adherence to the maintenance programmes and cleaning schedules specified by the manufacturer. The applicant is aware that failure to adhere to the recommended maintenance / cleaning programme may result in the escape of cooking odours, with the potential for adverse impact on neighbouring occupiers.*

*This has been a regular matter of concern to this Department when these types of systems are being considered. However, the circumstances in this instance are more favourable than in most, in that the extract system termination point will be at a central point in a window-less gable. Nearby, there are openable windows to the residential properties above, on both the front and rear elevations, and also one*

*servicing what appears to be a stairwell in the gable-end of the adjacent residential property to the west.*

*In this Department's opinion however, adherence to the recommended maintenance programme should ensure that odour escape is adequately controlled to minimise risk of adverse impact on neighbours. This will require to be backed by the recommended planning conditions below, to ensure that enforcement controls are available if necessary.*

*The applicant's architect advises that a concrete slab construction separates the application premises from the residential unit above. This should be sufficient to ensure that noise from normal operations arising within in the take-away will not be transmitted to the flat. However, it is still recommended that an appropriate condition be attached to any consent to this effect. A condition to control noise and vibration from fixed plant and machinery to NR25 is also required.*

*Regarding hours of operation, the applicant has indicated that he wishes to operate with a daily closing time of 22.30hrs. He is also willing to accept a temporary consent in the first instance. This might appear onerous where a substantial up-front investment in equipment is required to get the business operational, but in the untested circumstances, it will offer the Planning Authority the opportunity to reconsider its position, if and when permanent consent is sought in the future. In these circumstances, it is suggested that to be consistent with the majority of other such similar uses, a closing time of 23.00hrs rather than 22.30 hrs would be appropriate.*

*In conclusion, and with regard to the above comments, this Department does not object to this application, and strongly recommends that the following conditions be attached to any consent.*

- 1. No cooking shall be carried out on the premises except at such times as the kitchen is ventilated by an extract ventilation system capable of achieving 30 air changes per hour.*
- 2. The kitchen extract ventilation system shall be designed, constructed, installed and operated such that all effluvia are exhausted from the premises only at the approved discharge point, and in accordance with the approved filtration process.*
- 3. A written maintenance / cleaning schedule will be kept for the approved kitchen extract ventilation and filtration system. Maintenance of the system, including replacement of appropriate filter elements, and cleaning of the system, shall be carried out in accordance with the manufacturers and installers recommendations, as submitted.*
- 4. Full written / schematic details, including filter maintenance/ replacement periods and cleaning schedules for the proposed kitchen extract ventilation / filtration system shall be submitted to, and approved in writing by, the Head of Planning prior to any use hereby approved commencing.*
- 5. 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 within any neighbouring living apartment.*

*6. 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.*

*7. All music and vocals, amplified or otherwise, shall be controlled so as to be inaudible within any neighbouring premises.*

*8. Hours of operation shall be between 09.00 hrs and 23.00 hrs Monday to Sunday. No activity shall be permitted outwith these hours.*

*9. Planning permission shall be on a temporary basis of 2 years from date of consent.*

*Informative:*

*It is strongly recommended that the discharge point for the kitchen extract ventilation/filtration system is situated on the east gable of the application premises, equidistant between the front and rear elevations.*

## **Representations**

Neighbours were notified on 27 October 2004 and the proposal was advertised (bad neighbour) on 19 November 2004.

Six letters of objection have been received from neighbouring residents on the grounds that:

- a) it will give rise to unsavoury smells,
- b) there is inadequate sound proofing,
- c) it will encourage youths to loiter in the vicinity, adding to general noise and disturbance,
- d) it will add to on-street parking congestion,
- e) it represents a fire hazard and
- f) attachment of a flue to the building raises an ownership issue

***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**

The property is within the Urban Area in the South East Edinburgh Local Plan.

The short parade is not in a protected shopping frontage.

Relevant Policies:

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.

Policy H6 states that development for whatever purpose would result in an unacceptable reduction in amenity for residents in the locality will not be permitted.

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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. Permission is granted for a limited period of two years.
2. The use hereby approved shall cease within one month of the date of expiry of the limited period of consent.
3. The hours of operation shall be restricted to 9 am to 11 pm daily.
4. No cooking shall be carried out on the premises except at such times as the kitchen is ventilated by an extract ventilation system capable of achieving 30 air changes per hour
5. The kitchen extract ventilation system shall be designed, constructed, installed and operated such that all effluvia are exhausted from the premises only at the approved discharge point, and in accordance with the approved filtration process
6. Full written and schematic details, including the filter maintenance and replacement periods and the cleaning schedules for the proposed kitchen extract ventilation and filtration system, shall be submitted to, and approved in writing by, the Head of Planning & Strategy prior to the commencement of the use hereby approved.
7. A written maintenance & cleaning schedule shall be kept for the approved kitchen extract ventilation and filtration system. Maintenance of the system, including replacement of appropriate filter elements, and cleaning of the system, shall be carried out in accordance with the manufacturers and installers recommendations, as submitted. The maintenance/cleaning

- schedule shall be submitted in connection with any planning application to renew or modify the consent hereby granted.
8. The approved internal ventilation system shall be installed and operational to the satisfaction of the Head of Planning & Strategy, before the change of use is effected.
  9. 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.
  10. 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.
  11. All music and vocals, amplified or otherwise, shall be so controlled as to be inaudible within any neighbouring premises.

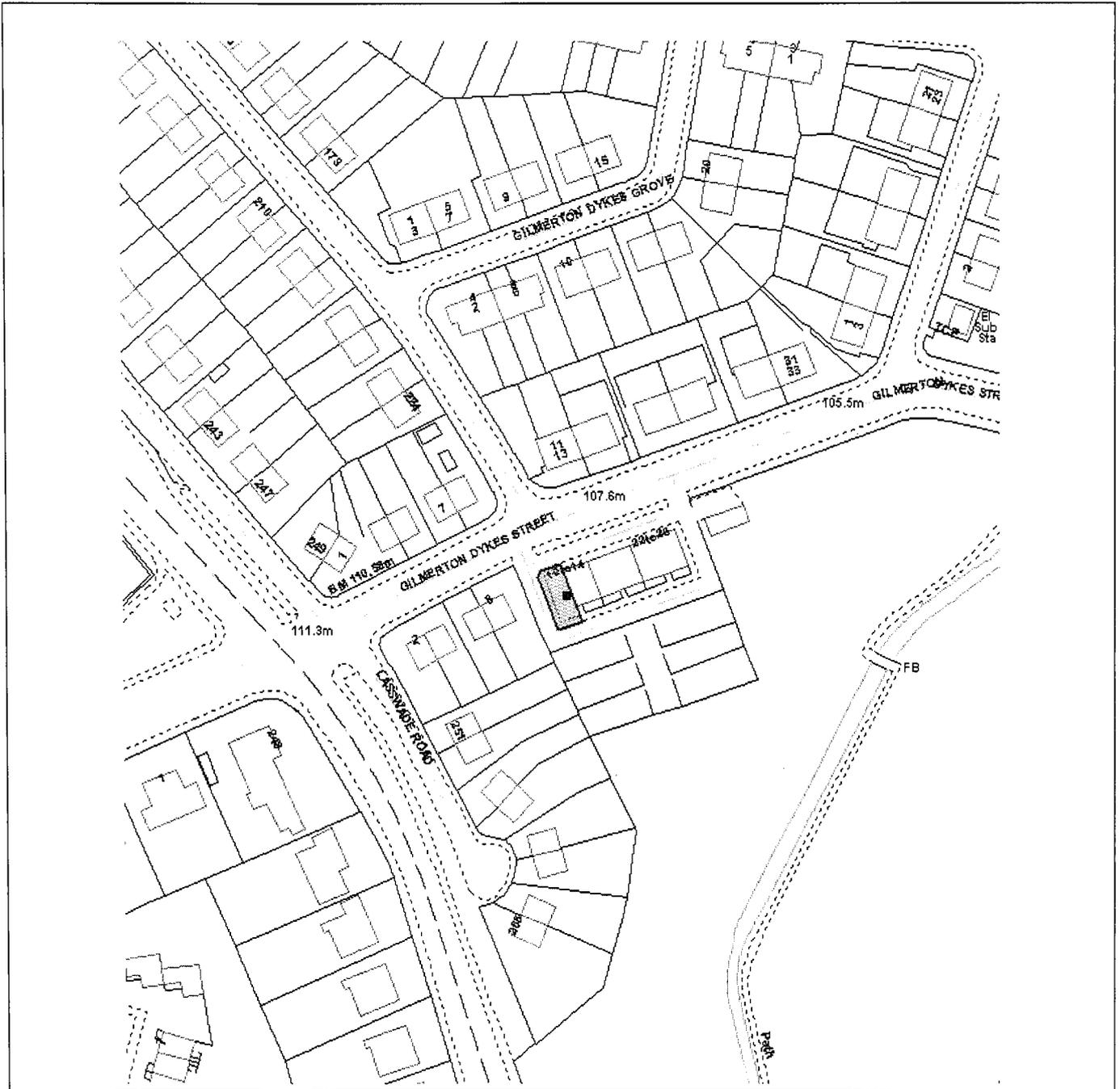
### **Reasons**

1. In order to give due recognition to the special circumstances displayed by the applicant/s in this particular case, and to enable the planning authority to exercise appropriate control at the expiry of these special circumstances.
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3. In order to safeguard the amenity of neighbouring residents and other occupiers.
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**End**



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# **PLANNING APPLICATION**

<b>Address</b>	<b>10 Gilmeron Dykes Street, Edinburgh, EH17 8JX</b>		
<b>Proposal</b>	<b>Change of use to hot-food take-away (as amended)</b>		
<b>Application number:</b>	<b>04/03990/FUL</b>	<b>WARD</b>	<b>56- Gilmerton</b>
<b>THE CITY OF EDINBURGH COUNCIL THE CITY DEVELOPMENT DEPARTMENT- PLANNING &amp; STRATEGY</b>			