

Development Management Sub Committee

Wednesday 21 March 2018

**Application for Planning Permission 17/03933/FUL
At 58 South Clerk Street, Edinburgh, EH8 9PS
Change of use from Class 2, Beauty Salon, to Class 3,
Restaurant.**

Item number	4.6
Report number	
Wards	B15 - Southside/Newington

Summary

The proposed change of use complies with policy NCTC3 of the Nicolson Street/Clerk Street Town Centre Supplementary Guidance and LDP policy Ret 11. The change of use will not have an adverse impact on the vitality and viability of the town centre and is not located within an area as identified as having an over concentration of food and drink uses. The proposal is acceptable in terms of impact on residential amenity and transport issues. There are no material considerations which justify refusal of this application.

Links

Policies and guidance for this application	SGNIC, LDPP, LEN04, LEN06, LRET11, LHOU07, CRPSSI, NSBUS,
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Report

Application for Planning Permission 17/03933/FUL At 58 South Clerk Street, Edinburgh, EH8 9PS Change of use from Class 2, Beauty Salon, to Class 3, Restaurant.

Recommendations

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

Background

2.1 Site description

The property is a ground floor and basement unit of a four storey traditional tenement, located on the western side of South Clerk Street. The site forms part of a Category C listed building (reference 28556, 29/04/1977).

The premises are located within a row of commercial units which are identified in the Edinburgh Local Development Plan (LDP) as part of a Town Centre.

This application site is located within the Southside Conservation Area.

2.2 Site History

18 August 2017 - Planning permission refused for change of use from Class 2, Beauty Salon, to Class 3, restaurant (application reference 17/02140/FUL).

Main report

3.1 Description Of The Proposal

The application proposes a change of use from Class 2, beauty salon, to Class 3, restaurant. No external alterations to the property are proposed.

Internal alterations are also proposed to the property, but there has been no corresponding LBC application submitted.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals harm the character or appearance of the conservation area? If they do, there is a strong presumption against granting of permission.

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 is appropriate in the location;
- b) The proposed use would result in any loss of amenity;
- c) There are any transport issues; and
- d) Any matters raised in representations have been addressed.

a) Acceptability of the use

The property is situated within the designated Nicolson Street/Clerk Street town centre. LDP policy Ret 11 advises that change of use will be supported to Class 3, food and drink, unless there is likely to be an adverse impact on neighbouring amenity, or in an area where there is considered to be an excessive concentration of such uses.

As the property is within the Nicolson Street/Clerk Street town centre Policy NCTC3 of the Nicolson Street/Clerk Street Supplementary Guidance is also of relevance in the assessment of this application and states:

For those locations not within an identified frontage, but elsewhere within the Nicolson Street/Clerk Street Town Centre boundary, a change of use from a shop to a non-shop use will be permitted provided a proposal is:

- *Class 2 - financial, professional or other services;*
- *Class 3 - food and drink uses;*
- *An appropriate commercial, community or leisure use which would complement the character of the centre and would not be detrimental to its vitality and viability.*

In this part of South Clerk Street there are a significant number of food and drink premises. Three of the four units to the north of the application site are currently in use as hot food takeaways. However, the recently adopted supplementary guidance has identified this part of the town centre, as an area where change of use to Class 3 will be supported and will complement the range of uses in the wider town centre area. The site does not lie within an area which is identified as having an over concentration of food and drink uses as shown in the non-statutory Guidance for Businesses.

On this basis, the principle of a change of use from Class 2, to Class 3 accords with LDP policy Ret 11.

The applicant proposes that ventilation of cooking odours is taken through an existing chimney on the premises and does not require the erection of an additional external flue system. Therefore, there will be no impact on the character or appearance of the property in the Southside Conservation area.

b) Impact on neighbouring amenity

A Noise Impact Assessment has been submitted as a supporting document to the application. Environmental Protection has advised that the proposals meet with its requirements in terms of the protection of neighbouring amenity for both noise and odours, subject to a condition relating to ventilation.

The property has existing access both through the frontage to the pavement and at basement level through the residential close. These existing, and established accesses will be used for deliveries to the property. Given that there will be no change to the existing situation, this will have an acceptable impact on neighbouring amenity.

The proposal involves a change of use of an existing property and will no additional impact on the drainage system

c) Transport issues

There would not be a significant impact on parking provision or traffic movements or antisocial behaviour as a result of the proposals. There are no minimum parking standards requirements for a proposal of this nature.

d) Representations

Nine letters of objection have been received, which raised the following material issues:

- Over concentration of food outlets in area (addressed in section 3.3a);
- Insufficient parking provision (addressed in section 3.3c);
- Increase in traffic (addressed in section 3.3c);
- Impact on drainage system (addressed in section 3.3b);
- Delivery access would be through residential close (addressed in section 3.3b);
- Noise impact from air handling units (no air handling units proposed as part of this application); and
- Smells nuisance (addressed in section 3.3b).

Non material issues, which are not of relevance to the assessment of this application:

- Financial position of applicant;
- Increase in antisocial behaviour; and
- Impact on other business.

Community Council

The Southside Community Council did not request to be a statutory consultee, but objected on the following grounds:

- Overprovision of food outlets in the surrounding area; and

- Impact on the drainage network.

These issues have been addressed in sections 3.3a) and b).

Conclusion

The proposed change of use complies with policy NCTC3 of the Nicolson Street/Clerk Street Town Centre Supplementary Guidance and LDP policy Ret 11. The change of use will not have an adverse impact on the vitality and viability of the town centre and is not located within an area as identified as having an over concentration of food and drink uses. The proposal is acceptable in terms of impact on residential amenity and transport issues. There are no material considerations which justify refusal of this application.

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

3.4 Conditions/reasons/informatives

Conditions:-

1. Prior to the commencement of the use on site, the extract flue and ventilation system, capable of 30 air changes per hour, as shown on drawing no. 1 shall be implemented and operational.

Reasons:-

1. 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. 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.

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

Nine objections have been received. A summary of these can be found in the main assessment section of the report. These included comments from the Southside Community Council.

Background reading/external references

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

Statutory Development**Plan Provision**

South Side Conservation Area.

Date registered

24 August 2017

Drawing numbers/Scheme

01,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Rachel Webster, Planning Officer

E-mail:rachel.webster@edinburgh.gov.uk Tel:0131 529 3442

Links - Policies

Relevant Policies:

Nicolson/clerk Street Town Centre SG sets criteria for assessing change of use of shop units within Nicolson/Clerk Street Town Centre.

Relevant policies of the Local Development Plan.

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

LDP Policy Env 6 (Conservation Areas - Development) sets out criteria for assessing development in a conservation area.

LDP Policy Ret 11 (Food and Drink Establishments) sets criteria for assessing the change of use to a food and drink establishment.

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

The South Side Conservation Area Character Appraisal emphasises the harmonious scale, massing and materials and the significance of key institutional buildings within the area.

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

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Consultations

Environmental Protection

The applicant proposes changing the use of a ground floor commercial property from use class 2 to class 3 restaurant. The property has residential properties located above on South Clerk Street in the middle of a small row of various commercial and retail uses. There are also further residential properties located to the rear and front of this property.

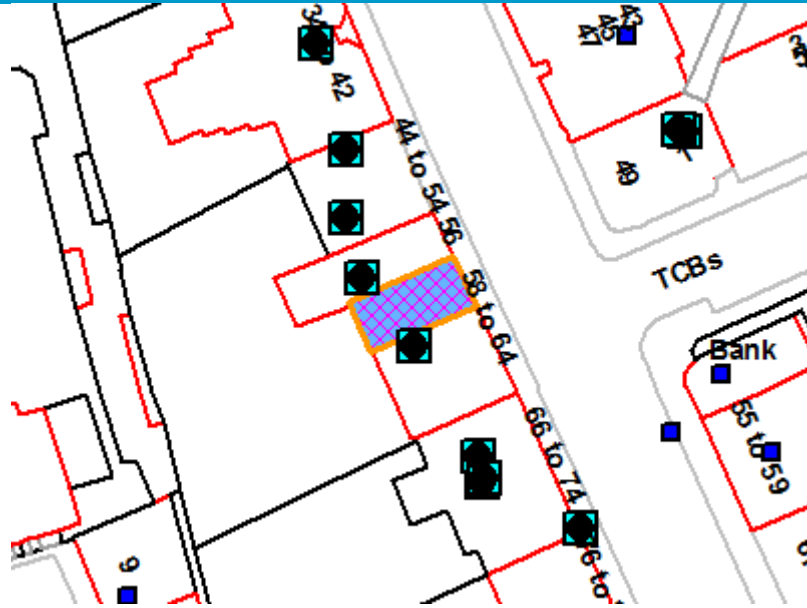
There are similar uses already operating on this row. Environmental Protection have received a number of odour complaints and a noise complaint regarding the operation of these uses some of these issues are still being investigated.

The applicant has provided a supporting noise impact assessment that has demonstrated that no noise mitigation will be required. The applicant has also provided evidence that the commercial kitchen flue liner is capable being passed through the existing chimney and terminate at chimney pot level.

Therefore, Environmental Protection offer no objection subject to the following condition;

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. P/L/2017/09/01 dated May 2017 shall be implemented.

Location Plan



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