

# Development Management Sub Committee

Wednesday 20 March 2019

**Application for Planning Obligation 18/09508/OBL  
At 1 - 17 Glasgow Road, Edinburgh, EH12 8HW  
Application for the discharge of a Planning Obligation (Ref  
A/02114/94)**

<b>Item number</b>	4.3
<b>Report number</b>	
<b>Wards</b>	00 - No Ward Number

## Summary

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The terms of the legal obligation, attached to the 1996 consent have been superseded by the policies in the Edinburgh Local Development Plan 2016 and that the applicants' request for the discharge of the obligation can therefore be accepted.

## Links

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[Policies and guidance for this application](#)

# Report

## **Application for Planning Obligation 18/09508/OBL At 1 - 17 Glasgow Road, Edinburgh, EH12 8HW Application for the discharge of a Planning Obligation (Ref A/02114/94)**

### **Recommendations**

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1.1 It is recommended that this application be accepted and the agreement be discharged

### **Background**

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#### **2.1 Site description**

The development site is located to the south west of the Drumbrae roundabout junction between Glasgow Road/St John's Road (A8) and Drum Brae South/Meadow Place (B701).

To the north and east are principally residential properties beyond the frontage properties at the roundabout and St John's Road which are commercial/retail. There is a large supermarket with surface level car parking and a petrol filling station on the land to the south, beyond Gylemuir Road.

It presently comprises three buildings presently operated by McDonald's, Currys PC World and Pets at Home.

There is vehicular access from both Glasgow Road to the north-west and Gylemuir Road to the south.

#### **2.2 Site History**

The relevant site history is:

17 January 1996 - Planning permission was granted to erect a non-food retail unit (application reference A/02114/94).

22 March 1996 - A legal obligation was concluded for this application with a clause prohibiting the sale of food.

## Main report

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### 3.1 Description Of The Proposal

The application seeks the discharge, in its entirety, of the planning legal obligation, made under the provisions of section 50 of the Town and Country Planning (Scotland) Act 1973, regarding the Gylemuir retail development site (reference A/02114/94) and concluded with the Council on 22 March 1996.

The relevant restrictive clause states:

*"The sale of food as otherwise permitted in terms of Class 1 of the Schedule to the Town and Country Planning (Scotland) Act 1989 shall be prohibited on any part or parts of the Agreement Subjects."*

### 3.2 Determining Issues

Section 75A(1)(a) of the Town and Country Planning (Scotland) Act 1997 states - A planning obligation may not be modified or discharged except, by agreement, between the planning authority and a person against whom that obligation is enforceable.

In determining such an application for the modification or discharge of a planning obligation, the specific provision should be considered against the five policy tests set out in Planning Circular 3/2012. These tests relate to: necessity, planning purpose, relationship to the proposed development, relationship to scale and kind and reasonableness

### 3.3 Assessment

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

- a) the discharge of the obligation, as proposed, is considered to be acceptable;
- b) the proposals have any equalities or human rights impacts;
- c) comments raised have been addressed; and
- d) finance implications of the decision.

#### a) The Principle is Acceptable

At the time of the original planning application the proposed use of the property was deemed acceptable for non-food retail only in order to ensure the development remained compatible with the character of the surrounding area. The new retail floor space was restricted to non-food retail only.

Since that time the Council's Development Plan policies have changed and evolved. The application site now forms part of the defined Corstorphine Town Centre. Within such an area policy RET 3 retail uses, including food retail, are considered to be acceptable. The policy does not stipulate whether it is convenience or comparison retail.

The prevailing policy reasons for imposing the terms of the original planning obligation are therefore no longer relevant and the policies may permit changes of use, including class 1 food retail, within the application site boundary.

Accordingly, the proposed discharge of the planning obligation is appropriate and can be agreed in this instance.

b) Equalities and Human Rights Impacts

This application has no impact in terms of equalities or human rights.

c) Public Comments

No representations were received concerning this proposal.

d) Finance

If the obligation is discharged, there would be no financial implications.

The provisions of the original planning obligation were restrictive only and there were no financial requirements included in its provisions.

The terms of the legal obligation, attached to the 1996 consent have been superseded by the policies in the Edinburgh Local Development Plan 2016 and that the applicants' request for the discharge of the obligation can therefore be accepted.

It is recommended that this application be accepted and the agreement be discharged

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

#### **Informatives**

It should be noted that:

1. Please submit an engrossed Discharge or Minute of Variation (as appropriate) in accordance with the terms of this Decision Notice for execution and registration by the City of Edinburgh Council along with the required registration forms and registration fee. Submissions should be sent to The City of Edinburgh Council, Legal Services, 4 East Market Street, Edinburgh, EH8 8BG.

#### **Financial impact**

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

If the obligation is discharged, there would be no financial implications.

The provisions of the original planning obligation were restrictive only and there were no financial requirements included in its provisions.

## **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**

The application, to modify and discharge an obligation, is required to be notified to any other parties to the original agreement, in accordance with the provisions of Regulation 5 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.

The necessary notifications were carried out under the Regulations and no representations have been received.

## **Background reading/external references**

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- 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**

**Edinburgh Local Development Plan - Corstorphine  
Town Centre and Urban Area.**

**Date registered**

24 October 2018

**Drawing numbers/Scheme**

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**David R. Leslie**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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**Links - Policies**

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# Appendix 1

**Application for Planning Obligation 18/09508/OBL  
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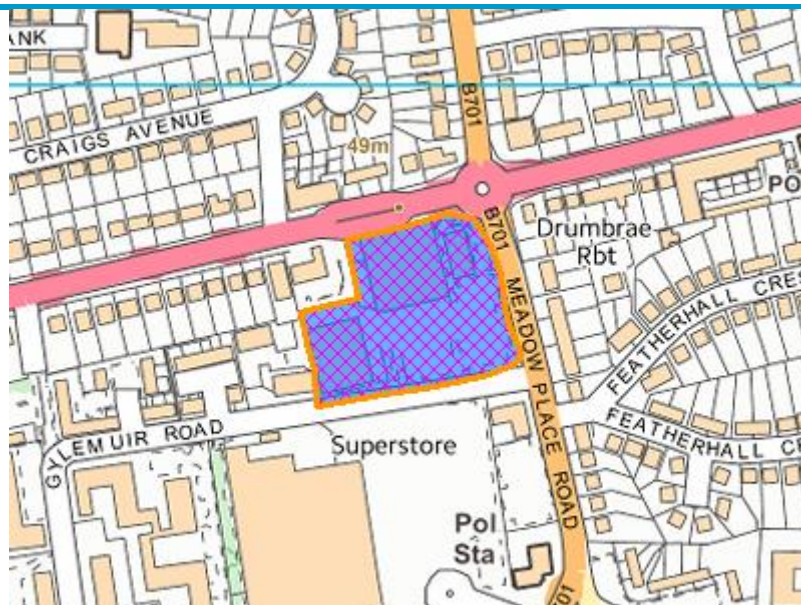
## Consultations

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None

## Location Plan

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