

Development Management Sub Committee

Wednesday 19 June 2019

**Application for Planning Permission 18/10239/FUL
At 540A Lanark Road, Edinburgh, EH14 5EL
Extension of existing class 2 use premises to form new class
3 hot food takeaway (Sui Generis). (Change of Use from
Bank Class 2 to Class 1 is permitted development). (Re-
submission related to 17/04434/FUL).**

Item number	4.5
Report number	
Wards	B02 - Pentland Hills

Summary

The proposal is an acceptable form and scale of development within the local centre and accords with Local Plan Policy Ret 5. The scale and design of the proposed development would not result in an adverse impact on the character and appearance of the conservation area or result in a harmful loss of amenity to neighbouring properties. The proposed development would not result in adverse traffic impacts. There are no material considerations which outweigh this conclusion.

Links

Policies and guidance for this application	LDPP, LDES05, LDES12, LEN06, LRET05, LRET11, LTRA02, LTRA03, NSG, NSBUS, OTH, CRPJGR,
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Report

Application for Planning Permission 18/10239/FUL At 540A Lanark Road, Edinburgh, EH14 5EL Extension of existing class 2 use premises to form new class 3 hot food takeaway (Sui Generis). (Change of Use from Bank Class 2 to Class 1 is permitted development). (Re- submission related to 17/04434/FUL).

Recommendations

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

Background

2.1 Site description

The application site lies on the north side of Lanark Road at the junction with Baberton Avenue. The site is occupied by a single storey building, positioned behind a low stone wall, which was previously in use as a bank and is now currently vacant. To the front of the building is a tarmacked area used as a parking area. Access to the site is from Lanark Road and Baberton Avenue. The area is a mixture of residential and commercial uses and the site lies adjacent to a pub with residential properties located directly behind the site.

This application site is located within the Juniper Green Conservation Area.

2.2 Site History

27 June 2014 - Advertisement consent granted for the installation of internally illuminated fascia signs to front and side, install new ATM panels, window vinyls, welcome signage panel and internally illuminated projecting sign on existing flagpole (application number 14/01923/ADV).

6 June 2017 - Planning permission granted for the removal of the existing brand signage, ATM + night safe, infill apertures with stainless steel blanking plate (application number 17/01583/FUL).

25 April 2018 - Planning permission refused for the extension of Existing Class 2 Use Premises to form new Class 3 Hot Food Takeaway (Sui Generis). (application number 17/04434/FUL).

20 September 2018 - Appeal determined by the DPEA and dismissed at appeal. The reporter concluded that given the prominent position of the site within the conservation area, the proposed design would have an adverse impact on the conservation area. The change of use was supported and was acceptable in terms of amenity and transport issues.

Main report

3.1 Description Of The Proposal

The application is for a change of use from class 2 to class 1 (Retail) within the existing unit. A single storey extension is proposed to the side of the existing building to form a separate new hot food takeaway unit.

The extension measures 7.5 metres wide by 15.4 metres in length with a pitched roof measuring 3.8 to the eaves and 6.3 metres overall.

Materials proposed are facing brick, trespa panels and aluminium glazed screens.

Supporting Information

The following documents have been submitted in support of the application:-

Noise Impact Assessment; and
Parking Statement.

This document is available to view on the Planning and Building Standards Online Services.

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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states - special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

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 proposals would have a detrimental impact upon the adjacent local retail centre;
- b) the proposal is of an appropriate scale, form and design and does not detract from the character and appearance of the conservation area;
- c) the proposal will not result in an unreasonable loss of neighbouring amenity;
- d) the proposal is acceptable in terms of road safety;
- e) any impacts on equalities or human rights are acceptable; and
- f) comments raised have been addressed.

a) Local Centre

The change of use from class 2 (financial, professional and other services) to retail class 1 within the existing building is permitted development under Class 10 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) and is not being assessed as part of this application.

The proposed site lies within the Juniper Green Local Centre. Edinburgh Local Development Plan (LDP) Policy Ret 5 applies and sets out four requirements for acceptability:

- i) that the proposal can be satisfactorily integrated into the centre.
- ii) is compatible, in terms of scale and type, with the character and function of the centre.
- iii) makes a positive contribution to the shopping environment and appearance of the centre.
- iv) would not have a significant adverse impact on the city centre or any town centre.

The local centre has a wide range of shopping and other uses ranging from pharmacy, barbers, bike repair shop, pub, restaurant, fish and chip shop and a takeaway. The role of local centres is to provide a basic level of shopping services within walking distances of all homes. The appeal decision stated that it is a busy centre providing a mix of services to meet local needs and whilst there is a number of eating/ hot food outlets in the surrounding area these do not dominate the area. The new unit will provide 82 sqm of floor space along with providing a new retail unit and within the context of the centre as a whole, the proposal is considered compatible in terms of scale and type.

The proposal improves the overall appearance of the building within the context of the existing local centre. The scale, form and design of the extension are considered further in section 3.3 b).

The scale and form of this proposal will not impact on the city centre retail core or any town centre.

In addition, Policy Ret 11 and the Non Statutory Business Guidance supports hot food takeaways in existing shopping centres as long as the property is not within an area of restriction, there is not an excessive concentration of uses and there will be no adverse impact on residential amenity. The property is not within an area of restriction, it will result in an additional hot food use within the local centre but this is not considered to be excessive, and the impact on residential amenity is considered further in section 3.3 c). In conclusion, the hot food takeaway is an appropriate use in principle and would complement the function of the local retail centre. The proposal complies with LDP Policies Ret 5, Ret 11 and the non-statutory guidance on business.

b) Scale, Form and Design and Impact on the Conservation Area

The Juniper Green Conservation Area Character Appraisal states that, *A wide and interesting mix of architectural styles and form ranging from original farm buildings with vernacular construction, to Georgian, Victorian Edwardian and modern developments.*

LDP Policy Env 6 requires development to preserve or enhance the special character and appearance of the conservation area and to contribute positively to the character of the area. The existing building, built in the 1960s/70s, does not contribute to the character of the conservation area, which comprises a wide and interesting mix of architectural styles. The proposed extension has been designed as single storey so that it will not detract from the character of the immediate area or the appearance of the original modern building, and is of an acceptable scale and design. The materials will match the existing building and provide visual continuity.

The proposal will not have an adverse impact on the character and appearance of the conservation area and complies with LDP Policies Env 6 and Des 12.

c) Amenity

The extension will not result in overshadowing to the neighbouring residential properties and no privacy issues arise from the proposal.

The property is located adjacent to other commercial uses and residential properties. The applicant has submitted a Noise Impact Assessment (NIA) to assess the noise from the kitchen ventilation extraction system.

Environmental Protection raised no objections to the application subject to conditions relating to ventilation, hours of operation and deliveries. A suspensive condition has been attached to control the ventilation within the kitchen.

It should be noted that the application site is located on a main thoroughfare which is characterised by commercial uses at ground floor with residential above. The need to restrict delivery hours in this instance is unnecessary as the other business premises are not subject to these conditions.

Noise from outside the premises cannot be controlled by Planning and any issues of anti-social behaviour would be a matter for Police Scotland.

The site is not located within an area of restriction as set out in the Non Statutory

Business Guidance therefore a condition on hours of operation is not appropriate as there are other late night uses within the Local Centre.

The proposal complies with LDP Policies Des 5, Des 12 and Ret 11.

d) Road Safety

A parking survey was submitted in support of the application. This survey indicated that there were sufficient on street parking spaces available in the vicinity during the proposed period of operation. The Roads Authority has raised no objections to the application. The former use (class 2) provided one formal disabled space and approximately four additional informal spaces on the site. Current Council parking standards (October 2017) permit up to 1 space per 14 square metres for Class 3 (hot food takeaway). The total proposed floor area is estimated at 300 square metres, including the additional 82 square metres extension and this would permit up to 21 spaces. Given the size of the site, scale of the development and its location this number of parking spaces cannot be accommodated and therefore the provision of one disabled space and cycle parking within the site is acceptable.

e) Equalities and Human Rights

This application was assessed in terms of equalities and human rights. No impact was identified.

f) Public comments

The material objections raised were:

- on street parking is inadequate - addressed in section 3.3 d).
- too many takeaways - addressed in section 3.3 a).
- cooking odours - addressed in section 3.3 c).
 - bullet noise and disturbance -
- design is out of character with the area - addressed in section 3.3 b).

Conclusion

The proposal is an acceptable form and scale of development within the local centre and accords with Local Plan Policy and non statutory guidance. The scale and design of the proposed development would not result in an adverse impact on the character and appearance of the conservation area or result in a harmful loss of amenity to neighbouring properties. The proposed development would not result in adverse traffic impacts. There are no material considerations which outweigh this conclusion

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

3.4 Conditions/reasons/informatives

1. Prior to the Class 3 use being taken up, the kitchen ventilation extract system, capable of 30 air changes per hour, shall be installed as shown on drawing number 5660 (4) GA010.

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:

This application was assessed in terms of equalities and human rights. The impacts are identified in the Assessment section of the main report.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application meets the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Pre-application discussions took place on this application.

8.2 Publicity summary of representations and Community Council comments

The application was advertised on 11 January 2019. A total of 18 letters of representation has been received. A full assessment of the representations can be found in the main report in the Assessment Section.

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	Edinburgh Local Development Plan - Local Centre.
Date registered	5 December 2018
Drawing numbers/Scheme	01-05, Scheme 1

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

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

LDP Policy Ret 5 (Local Centres) sets criteria for assessing proposals in or on the edge of local centres.

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

LDP Policy Tra 2 (Private Car Parking) requires private car parking provision to comply with the parking levels set out in Council guidance, and sets criteria for assessing lower provision.

LDP Policy Tra 3 (Private Cycle Parking) requires cycle parking provision in accordance with standards set out in Council guidance.

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.

Other Relevant policy guidance

The Juniper Green Conservation Area Character Appraisal emphasises the traditional village character, and the wide and interesting mix of architectural styles and forms.

Appendix 1

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Consultations

Roads Authority

No objections to the application subject to the following being included as conditions or informatives as appropriate:

1. *All disabled persons parking places should comply with Disabled Persons Parking Places (Scotland) Act 2009. The Act places a duty on the local authority to promote proper use of parking places for disabled persons' vehicles. The applicant should therefore advise the Council if he wishes the bays to be enforced under this legislation. A contribution of £2,000 will be required to progress the necessary traffic order but this does not require to be included in any legal agreement. All disabled persons parking places must comply with Traffic Signs Regulations and General Directions 2016 regulations or British Standard 8300:2009 as approved.*

Note:

Current Council parking standards (October 2017) permit up to 1 space per 14m² for Class 3 (hot food takeaway). The total proposed space is estimated at 300m², including the additional 99m², permitting a maximum of 21 spaces. The existing 200m² Class 2 (former bank) would permit up to 4 spaces and currently provides 1 formal space with approximately 4 additional informal spaces on site.

Given the nature and scale of the development, its location and the provision of cycle parking, the proposed 1 disabled space is considered acceptable.

A parking survey was submitted in support of the application. This survey indicated that there were sufficient on street parking spaces available in the vicinity during the proposed period of operation.

Environmental Protection

Environmental Protection has no objections to this planning application, subject to the following conditions:

Conditions

1. *Prior to the Class 3 use being taken up, the kitchen ventilation extract system, capable of 30 air changes per hour, shall be installed as show on drawing no. 5660(4)GA010.*
2. *The ventilation system shall be installed, tested and operational, prior to the use hereby approved being taken up.*
3. *Prior to the Class 3 use being taken up, the ventilation extract fan installed, shall produce no more noise at any octave band frequency than the model proposed and used in the Noise Impact Assessment, R-8045-ST1-MI, 7th February 2018; (Vent Axia, Black Sabre Slim: BSC500/4).*
4. *Prior to the Class 3 use being taken up, a silencer of the same specification as that detailed in the Noise Impact Assessment, R-8045-ST1-MI, 7th February 2018; (Silencer - VentDirect CP03-C*P-0500-2D) shall be installed.*
5. *The hours of operation of the premises shall be restricted to between the hours of 07.00 hours and 23.00 hours, in order to protect the amenity of nearby residents.*
6. *Deliveries and collections, including waste collections, to be restricted to between the hours of 07.00 hours and 21.00 hours; Monday to Saturday and between 09.00 hours and 21.00 hours on Sundays. Assessment*

Planning application 18/10239/FUL is for the extension of an existing Class 2 premises, to form a new class 3 hot food takeaway. The proposed change of use of the existing part of the building from Class 2 to Class 1 is permitted development. It is a resubmission of application 17/04434/FUL which was refused.

The development site is an existing detached single storey, flat roofed property which was previously used as a Bank. The building is positioned on the corner of Lanark Road and Baberton Avenue in the village of Juniper Green. Juniper Green is a relatively quiet suburban village on the outskirts of Edinburgh. Lanark Road is a main thoroughfare and traffic can be very busy at peak times. Therefore, the predominant background noise in the area during the daytime will be traffic noise.

Immediately to the south west of the site on the same side of Lanark Road, is a Public House over two and ½ storeys, this adjoins to a hairdressing salon with what appears to be a residential flat located above. Further south west are a hairdressers and bookmakers with residential accommodation on the two floors above.

Immediately to the north and north east, behind the development site are two semi-detached one and a half storey residential properties at Baberton Park. To the east, on the other side of Baberton Park is a hairdressing salon with what appears to be residential accommodation on the floor above. Heading further north east along Baberton Park is a two storey residential building adjoining a 2 and a half storey residential accommodation.

On the opposite side of Lanark Road to no. 540a, to the south is a restaurant and chip shop. Further east, directly opposite the site is a one and a half storey residential property. This is adjacent to a vacant single storey building formerly used as a public toilet. Further east is a single storey bike repair shop.

The main concerns regarding this application relate to noise from associated activities as well as odour from cooking affecting neighbouring residential accommodation. Following discussions, the agent amended the plans in order that the kitchen extract fan duct would clear the ridge height of the two and a half storey residential property in Baberton Avenue, which was within a 30m radius of the extract duct.

With regard to noise, the agent submitted a Noise Impact Assessment (NIA) to assess the noise from the kitchen ventilation extraction system. The NIA concluded that a silencer was required to ensure compliance with our noise standard. Therefore, the same specification of fan and silencer have been recommended as conditions.

The proposal is that the premises will only operate until 23.00 hours at night. However, it is possible that a future business could decide to trade later or operate a delivery only service after this time. Take-aways can generate significant late-night street noise with delivery vehicles arriving and leaving as well as noise from customers etc. It is not possible to mitigate against this type of street noise. After 23.00 hours, Juniper Green is very quiet with little traffic to mask this noise. Therefore, it is considered appropriate to recommend a condition to protect nearby residents from late night noise.

Similarly, early morning / late night deliveries or waste collections can also cause noise disturbance to residents that is difficult to mitigate against, therefore a condition is recommended.

Location Plan

