

Development Management Sub Committee

Wednesday 25 November 2020

**Application for Planning Permission 20/01598/FUL
at 540A Lanark Road, Edinburgh, EH14 5EL.
Change of use from Class 2 (Bank) to Class 1 (Permitted
Development) and to extend the existing Class 2 use
premises to form a new Hot Food Takeaway (Sui Generis).**

Item number

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 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.

Links

[Policies and guidance for this application](#)

LDPP, LDES05, LDES12, LEN06, LRET05, LRET11, LTRA02, LTRA03, NSG, NSBUS, OTH, CRPJGR,

Report

Application for Planning Permission 20/01598/FUL at 540A Lanark Road, Edinburgh, EH14 5EL Change of use from Class 2 (Bank) to Class 1 (Permitted Development) and to extend the existing Class 2 use premises to form a new Hot Food Takeaway (Sui Generis).

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

2.2 Site History

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 element was accepted in terms of amenity and transport issues (appeal reference PPA-230-2233).

19 June 2019 - Planning permission refused for the extension of Existing Class 2 Use Premises to form new Class 3/Hot Food Takeaway (Sui Generis). (application number 18/10239/FUL).

16 August 2019 - Appeal determined by the DPEA and dismissed at appeal. The reporter concluded that the proposed ventilation flue would introduce a visually intrusive feature, adversely impacting on the appearance of the property and surrounding area. The proposed extension and change of use were accepted in terms of design, amenity and transport issues (appeal reference PPA-230-2286).

Main report

3.1 Description of the Proposal

The application is for a change of use from class 2 (bank) 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 flat roof, measuring 3.8 to the eaves and 5.2 metres overall. A flue projecting one metre above the flat roof is to be located in the centre of the building.

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

Supporting Information

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

Planning statement and
Design and access statement.

These documents are 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 local retail centre;
- b) the proposal is of an appropriate scale, form and design and would not detract from the character and appearance of the conservation area;
- c) the proposal would result in an unreasonable loss of neighbouring amenity;

- d) the proposal would be 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

In isolation, 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). As part of this proposal, the change of use would be an appropriate and compatible development within the context of the local centre.

The following assessment covers the proposal to erect a single-storey extension on the east elevation of the existing property to form a separate hot food takeaway unit.

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

- i) 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 retail core or any town or local centre
- v) is easily accessible by public transport, foot and cycle.

Proposals for non-retail development in a local centre which would have a detrimental impact on the function of the centre will not be permitted.

The Non-Statutory Business Guidance support 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 proposal for a hot food takeaway would comply with the criteria set out in Policy Ret 5; it would be a modest addition in terms of scale, and it would form a compatible use that would make a positive contribution to the character and vitality of the centre. It is accessible by public transport and is located in a relatively central location, that is easy to access by foot or bicycle.

The appeal decision (PPA-230-2286), in relation to an earlier application for this property, reflects this; it concluded that the area is a busy centre, providing a mix of services to meet local needs. It noted that whilst there was a number of eating/ hot food outlets in the vicinity, these did not dominate the area.

The reporter stated that an additional hot food takeaway, of the size proposed, would not have a detrimental impact on the function of the Juniper Green local centre and that the impact of the proposed takeaway on residential amenity would be acceptable.

It is an appropriate use in principle and would complement the function of the local retail centre. The proposal complies with LDP Policy Ret 5 and the Non-Statutory Guidance for Business.

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

The Juniper Green Conservation Area Character Appraisal states that it has '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.

Policy Des 12 Alterations and Extensions states that planning permission will be granted for alterations to existing building which in their design, positioning and materials are compatible with the character of the existing building and will not be detrimental to neighbourhood character.

The existing building, erected in the 1960s/70s, does not make a significant or positive contribution to the character of the conservation area. The scale and form of the extension has been designed to be subservient to the original building, creating a modest addition that will neither challenge the appearance of the original building nor create an unsympathetic element within the immediate streetscape. The extension to the building would project into what is currently open space used for additional car parking within the curtilage of the site and would create a new building line on the east elevation. There is currently no distinct or uniform building line in the street and the introduction of the development would not adversely affect the character of the immediate vicinity. The use of matching materials to the existing building will provide a visual continuity to the benefit of the wider character of the area.

The proposed flue has been reduced in height (from two metres to one metre) when assessed against the previous scheme and would be relocated to a more central point on the roof to reduce its visual impact at ground level from both Lanark Road and Baberton Avenue. The new scheme has successfully addressed concerns raised by the previous appeal decision by moving the flue to a less prominent position and by reducing the height of the ventilation flue.

The proposal would 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 would 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 in close proximity to 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 operations within the kitchen.

However, as the application site is located on a main thoroughfare, which is characterised by a mix of uses, including an adjacent public house and other takeaways, many of which can lawfully operate without restrictions on delivery times, any restriction on this unit would be unreasonable, as it would have no meaningful effect on the protection of residential amenity.

Noise and public order 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 the Non-Statutory Guidance for Business.

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 disabled space and approximately four additional spaces on the site. Current Council parking standards (October 2017) permit up to 1 space per 14 square metres for hot food takeaway use.

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. Therefore, the provision of one disabled space and four other spaces within the site is acceptable.

No details of cycle parking provision have been submitted, and this will be controlled through a suspensive condition.

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:

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

Conclusion

The proposal is an acceptable form and scale of development within the local centre and accords with Edinburgh Local Development Plan policies and the Council's 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 and the change of use would not 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

Conditions:-

1. Prior to the hot food takeaway use being taken up, the kitchen ventilation extract system shall be capable of a minimum of 30 air changes per hour by volume and a minimum efflux velocity of 15m/s.
2. Prior to the hot food takeaway use being taken up, the kitchen extract system shall be fitted with the following odour mitigation measures as outlined in report: Airshed: AS 0737 Juniper Green, 31 March 2020.
 - a) Coarse and fine filters to arrest particle and fume.
 - b) Secondary fine filtration e.g. electro-static precipitation (ESP) to further eliminate particle and fumes.
 - c) Tertiary treatment to provide minimum of 90% odour reduction either by carbon filtration with a residence time of 0.4 seconds or system using O3 or combined O3/UV to achieve equivalent abatement.
3. Prior to the hot food takeaway 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-ST2-RGM, 9th March 2020; (Vent Axia, Black Sabre Slim: BSC500/4).

4. Prior to the hot food takeaway use being taken up, a silencer of the same specification as that detailed in the Noise Impact Assessment, R-8045-ST2-RGM, 9th March 2020; (Silencer - VentDirect CP03-C*P-0500-2D) shall be installed.
5. Prior to the initiation of development, details of on-site, cycle parking provision shall be submitted to and approved by the Planning Authority. The cycle parking shall be implemented and operational before the use is taken up.

Reasons: -

1. In order to safeguard the amenity of neighbouring residents and other occupiers.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
3. In order to safeguard the amenity of neighbouring residents and other occupiers.
4. In order to safeguard the amenity of neighbouring residents and other occupiers.
5. In order to enable the planning authority to consider this/these matter/s in detail.

Informatives

It should be noted that:

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.
2. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.
3. 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.
4. 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:

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

The application was advertised on 5 May 2020. A total of 11 letters of representation were 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

9 April 2020

Drawing numbers/Scheme

01-05,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Adam Gloser, Assistant Planner

E-mail: adam.gloser@edinburgh.gov.uk

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. The applicant should be required to provide a minimum of 2No. cycle parking spaces;*
- 2. 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 (January 2020) 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. *The kitchen ventilation extract system shall be capable of a minimum of 30 air changes per hour by volume and a minimum efflux velocity of 15m/s.*
2. *The kitchen extract system shall be fitted with the following odour mitigation measures as outlined in report: Airshed: AS 0737 Juniper Green, 31 March 2020.*
 - a) *Coarse and fine filters to arrest particle and fume.*
 - b) *Secondary fine filtration e.g. electro-static precipitation (ESP) to further eliminate particle and fumes.*
 - c) *Tertiary treatment to provide minimum of 90% odour reduction either by carbon filtration with a residence time of 0.4 seconds or system using O3 or combined O3/UV to achieve equivalent abatement.*
3. *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-ST2-RGM, 9th March 2020; (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-ST2-RGM, 9th March 2020; (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.*
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 20/01598/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 and 18/10239/FUL which were refused and where subsequent appeals were dismissed.

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 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. In relation to the last application, the position of the extract duct on the roof has been moved and the duct reduced in height. An odour assessment has been submitted with the application.

It is Environmental Protection's position that the only acceptable method to protect the amenity of nearby residents from cooking odour is to require that the ventilation extract duct height is 1m above the eaves or ridge height of residential accommodation within a 30m radius. (Depending on the style of construction.) This ensures satisfactory dilution and dispersal of the cooking effluvia. The current proposal does not meet this requirement, in particular for the property at 1 Baberton Park which has dormer windows. The odour impact assessment concludes that the odour from the proposed development requires the satisfactory implementation of odour control measures such as fine filtration or electrostatic precipitation (ESP) to prevent any significant adverse impacts on local residential amenity.

However, Environmental Protection's experience of such systems is that these mitigation measures have been found to be ineffective in protecting amenity and therefore are not accepted by Environmental Protection.

With regard to noise, the agent has revised the Noise Impact Assessment (NIA) from the last application which assesses the noise from the kitchen ventilation extraction system. The NIA concludes that a silencer is required to ensure compliance with our noise standard. Therefore, the same specification of fan and silencer have been recommended as conditions.

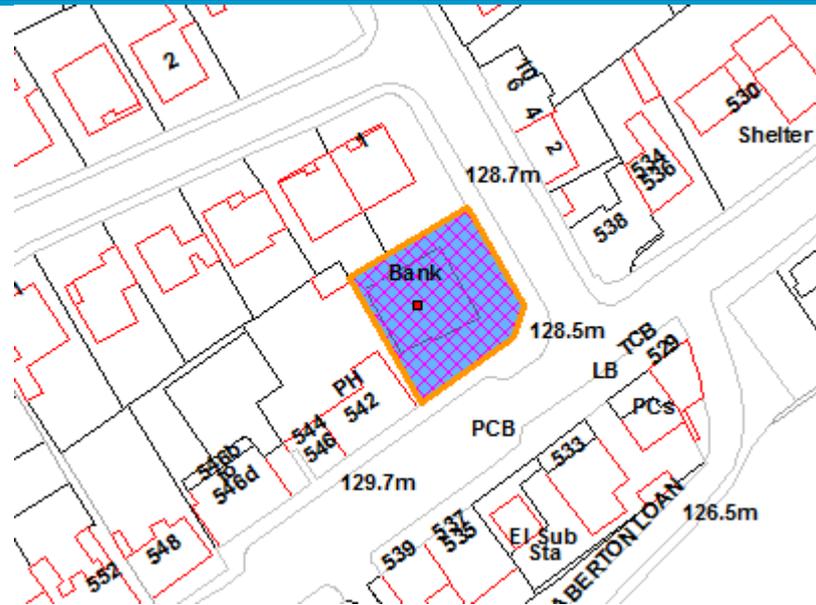
No information has been provided concerning trading hours. Take-aways can generate significant late-night street noise with delivery vehicles arriving and leaving as well as noise from customers etc. It is not possible to mitigate against this type of street noise. After 23.00 hours, Juniper Green is very quiet with little traffic to mask this noise. Therefore, if the application is granted, 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.

In summary, Environmental Protection cannot support this application due to the potential impact on the amenity of local residents that cooking odour can have.

However, if it is decided to grant the application, appropriate conditions have been recommended.

Location Plan



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