

Development Management Sub Committee

Wednesday 16 June 2021

**Application for Planning Permission 20/03527/FUL
at 54 Main Street, Edinburgh, EH4 5AA.
Internal and external alterations for a change of use from
Class 1 retail to licenced restaurant with new flue.**

Item number

Report number

Wards

B01 - Almond

Summary

The proposal does not comply with the Local Development Plan. Due to lack of information provided it is not possible to establish whether the proposal would have an adverse impact on neighbouring amenity. There are no material considerations that outweigh this conclusion and refusal is recommended.

Links

[Policies and guidance for this application](#)

LDPP, LRET11, LRET05, LDES05, NSG, NSBUS,

Report

Application for Planning Permission 20/03527/FUL at 54 Main Street, Edinburgh, EH4 5AA. Internal and external alterations for a change of use from Class 1 retail to licenced restaurant with new flue.

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The application site is a two-storey property with a retail unit to the ground floor and office on the first floor located on the south side of Main Street, Davidson's Mains. The Main Street is characterised by ground floor commercial units with residential properties above as well as single storey dwellings. The floor above the proposed restaurant has permission for use as flats (planning permission 19/04286/FUL). The applicant's supporting statement advises that it is intended that these will be used as residential accommodation for the restaurant staff. The site also has residential properties to the south.

2.2 Site History

07.11.2019 - Planning permission granted for: Subdivision of single retail unit to form two shops. Alteration and change of use of first floor office to form two flatted dwellings (19/04286/FUL).

Main report

3.1 Description of The Proposal

Planning permission is sought for a change of use from class 1 to class 3 licenced restaurant including the installation of a flue.

A supporting statement was submitted as part of the application. This can be viewed on the Planning and Building Standards online portal.

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 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 proposal is acceptable in principle;
- b) the proposal will adversely affect neighbouring residential amenity;
- c) there are any road safety and parking issues and
- d) any public comments have been addressed.

a) Principle

The site lies within Davidsons Mains Local Shopping Centre.

LDP Policy Ret 11 Food and Drink Establishments supports restaurants and cafes in principle provided this will not lead to an unacceptable increase in noise, disturbance, or on-street activities to the detriment of living conditions for nearby residents and provided there is not considered to be an excessive concentration of such uses.

The applicant has failed to supply additional information requested relating to the impact of noise on neighbouring properties and data on the extractor and flue. Some information was provided on request but did not meet the requirements as set out by Environmental Protection. No further information has been forthcoming. As a result, it is not possible to establish if the change of use would result in noise or disturbance to the detriment of living conditions for nearby residents.

As a result, the proposed use fails to comply with Policy Ret 11 and the Council's planning guideline.

b) Residential Amenity

LDP Policy Hou 7 relating to inappropriate uses in residential areas, states that developments, including a change of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

Environmental Protection requested a noise impact assessment to cover the property above and surrounding dwellings. This has not been received. Information and drawings regarding the ventilation system were also requested and not been received. It is therefore not possible to assess the impact of the proposed restaurant on the living conditions of the nearby residents.

While the supporting statement states that the flats above will be used for residential accommodation for the restaurant staff, those flats have a separate planning permission that do not place any restriction on occupancy.

Therefore, this application needs to consider impacts on residential amenity for potential residents who are not restaurant staff. In the absence of the noise impact assessment the applicant has failed to satisfy the provisions of Hou 7.

The proposal does not comply with LDP Policy Hou 7.

c) Road safety and parking

There are no changes to the existing arrangements

There are no traffic or car parking issues

d) Public comments

Following statutory neighbour notification and advertisement, 63 representations have been received. Of these, 44 objected to the proposal, 18 were in support and made neutral comments. The content has been summarised below:

Objections

Material

- Parking: this has been addressed in section 3.3 c);
- Noise: this has been addressed in section 3.3 b);
- Cooking odours: this has been addressed in section 3.3 b);
- Light pollution: this has been addressed in section 3.3 b).

Non-Material

- Restaurant too large;
- Will impact other places during covid recovery;
- Litter;
- Refuse collection;
- Antisocial behaviour;
- Ownership;
- Overprovision
- Drainage system of building.

Support

Material

- Supportive of use;
- Area needs rejuvenation.

Neutral

Material

- Parking: no objections from Transport.

Non-material

- End user.
- Tax.

Conclusion

The proposal does not comply with the Local Development Plan. Due to lack of information provided it is not possible to establish whether the proposal would have an adverse impact on neighbouring amenity. There are no material considerations that outweigh this conclusion and refusal is recommended.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Reasons: -

1. The proposal does not comply with LDP Ret 11 as it is likely to lead to an unacceptable increase in noise disturbance, on street activity or antisocial behaviour to the detriment of living conditions for nearby residents.
2. The proposal does not comply with LDP Hou 7 as the change of use would have a materially detrimental effect on the living conditions of nearby residents.

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

Following statutory neighbour notification and advertisement, 63 representations have been received.

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**

The site is within the Urban Area and Davidson's Mains Local Centre as defined by the Edinburgh Local Development Plan.

Date registered

9 September 2020

Drawing numbers/Scheme

01-04,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Murray Couston, Planning Officer

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Links - Policies

Relevant Policies:**Relevant policies of the Local Development Plan.**

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

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

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

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.

Appendix 1

Application for Planning Permission 20/03527/FUL At 54 Main Street, Edinburgh, EH4 5AA Internal and external alterations for a change of use from Class 1 retail to licenced restaurant with new flue.

Consultations

Environmental Protection

Further to your request for a consultation response from Environmental Protection, I would highlight the following concerns which need addressed prior to this team being in a position to further the application:

- 1. There are concerns that noise and odours will affect the residential properties above and surrounding. A noise impact assessment (NIA) should be provided which confirms that noise (internal and external noise from fan and flue) from the ventilation will be within NR25 internally with the residential window open for ventilation purposes and NR35 externally on the residential roof terrace. The NIA should also consider (and recommend mitigation if necessary) to ensure that internal restaurant operations are inaudible within the residential property above and surrounding (including customer noise, chairs scraping, music, kitchen operations etc)*
- 2. How much higher is the flue extract point from the first floor residential roof terrace and first floor residential windows and what will stop the effluvia from being blown back down to the roof terrace.*
- 3. The accommodation on first floor above is highlighted as "staff accommodation". Is this joined to the restaurant and is there anything that stops the accommodation being sold off and amenity issues arising in the future. For the purposes of the noise and odour assessments, the first floor accommodation should be treated as not joined to the restaurant operations with the residents suitably protected from noise and odour.*
- 4. A suitably qualified ventilation engineer should confirm that the ventilation can attain a minimum of 30 air changes per hour*
- 5. Please confirm that the flue extract point is above all surrounding residential property windows within a 30 metre radius.*

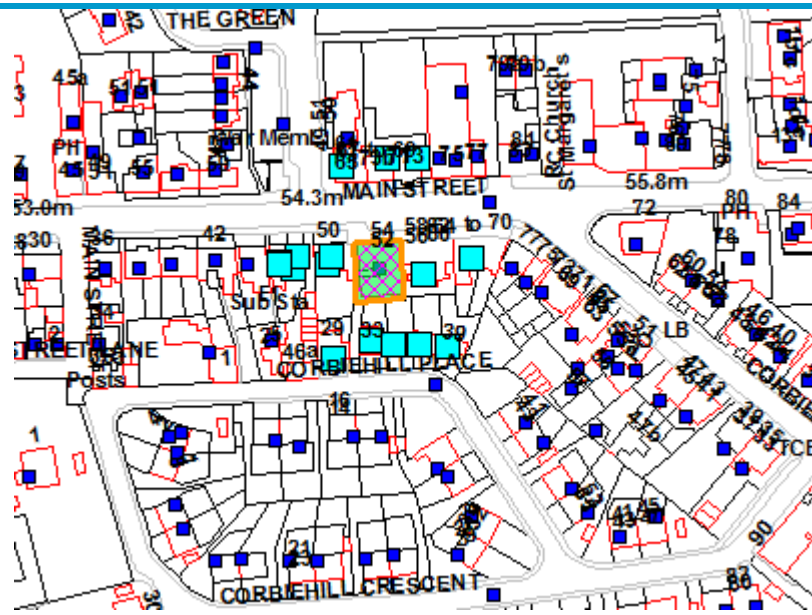
Transport

No objections to the application

Note:

- o Zero car parking complies with CEC's current parking standards and is considered acceptable;*
- o Vehicle trips associated with restaurant use are generally off-peak.*

Location Plan



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