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**Decision date: 17 April 2019**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS  
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Change of Use from shop to hot food takeaway  
At 7 - 9 Broomhouse Market Edinburgh EH11 3UU

**Application No:** 19/00633/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 13 February 2019, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

**Conditions:-**

**Reasons:-**

1. Given the close proximity between the application site and nearby neighbouring dwellings, it is considered that the proposed change of use from a shop to a hot food takeaway would result in an unacceptable impact on the living conditions of nearby residents in terms of noise, disturbance on street activity or anti social behaviour. The proposal is therefore contrary to Policies Ret 11 and Hou 7 of the Edinburgh Local Plan and the Council's non statutory Guidance for Business.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

Given the close proximity between the application site and nearby neighbouring dwellings, it is considered that the proposed change of use from a shop to a hot food takeaway would result in an unacceptable impact on the living conditions of nearby residents in terms of noise, disturbance on street activity or anti social behaviour. The proposal is therefore contrary to Policies Ret 11 and Hou 7 of the Edinburgh Local Plan and the Council's non statutory Guidance for Business.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Astrid Walker directly on 0131 529 3620.

*D R Leech*

**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://www.eplanning.scot) or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email [localreviewbody@edinburgh.gov.uk](mailto:localreviewbody@edinburgh.gov.uk).

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

# Report of Handling

## Application for Planning Permission 19/00633/FUL At 7 - 9 Broomhouse Market, Edinburgh, EH11 3UU Change of Use from shop to hot food takeaway

<b>Item</b>	Local Delegated Decision
<b>Application number</b>	19/00633/FUL
<b>Wards</b>	B07 - Sighthill/Gorgie

### Summary

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Given the close proximity between the application site and nearby neighbouring dwellings, it is considered that the proposed change of use from a shop to a hot food takeaway would result in an unacceptable impact on the living conditions of nearby residents in terms of noise, disturbance on street activity or anti social behaviour. The proposal is therefore contrary to Policies Ret 11 and Hou 7 of the Edinburgh Local Plan and the Council's non statutory Guidance for Business.

### Links

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<a href="#"><u>Policies and guidance for this application</u></a>	LDPP, LHOU07, LRET10, LRET11, LTRA02, NSG, NSBUS,
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# Report of handling

## Recommendations

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

## Background

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### 2.1 Site description

The application site is a single storey unit located within a short parade of shops, containing a community hub, bakers and shop and post office. The site is not within a defined centre. The unit is currently vacant.

The predominant character is residential, with housing located to the north, east and west of the site.

### 2.2 Site History

No planning history.

## Main report

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### 3.1 Description Of The Proposal

The application is for a change of use from a shop (Class 1) to a hot food take away (Class 3). The premises are currently vacant.

### 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, it needs to be considered whether:

- a) Whether the development is acceptable in principle;
- b) whether the development will result in an acceptable impact on amenity;
- c) whether the proposal will have any transport or parking implications;
- d) any public comments have been addressed;
- e) Equalities and Human Rights.

a) Whether the development is acceptable in principle

Policy Ret 10 considers alternative uses of shop units in other locations (i.e. outwith defined centres). The application site is currently vacant. It is not located within a speciality shopping street or a predominantly commercial area. The proposal would not result in the loss of premises suitable for small business use as they would be retained in use as a small business. The unit is located within a small parade of shops currently comprising a community shop, a bakers and a shop with post office. Local shopping needs are therefore met from the current neighbouring uses and there is not a justification to retain the unit as a shop in order to meet local needs.

Policy Ret 11 of the Edinburgh Local Plan stipulates that the change of use of a shop unit or other premises to a shop selling hot food for consumption off the premises (hot food takeaway) will not be permitted if likely to lead to an unacceptable increase in noise, disturbance, on- street activity or anti social behaviour to the detriment of living conditions for nearby residents.

Policy Hou 7 states that applications that would have a materially detrimental effect on the living conditions of nearby residents, will not be granted.

The Council's non statutory Guidance for Businesses states that in existing clusters of commercial uses, proposals will be supported provided that it will not lead to an unacceptable increase in disturbance, on-street activity or anti social behaviour to the detriment of the living conditions of nearby residents.

The proposal is considered acceptable in principle, subject to an assessment of the impact on amenity, as assessed in section 3. b) below.

b) Whether the development will result in an acceptable impact on amenity

The application site is located within a small run of commercial units, it is not however a designated local centre. The overriding character of the area is residential, with residential dwellings being situated immediately opposite and to the rear of the application site. Broomhouse Market is a narrow and enclosed pedestrian area with a modest degree of separation between the application site and the nearest neighbouring dwellings to the west. Hot food takeaways are recognised as a component of urban living however, such uses can cause a number of problems for local residents in terms of increase in noise, disturbance and anti social behaviour. Careful consideration must therefore be given to where they are located in order to minimise the impact on neighbour amenity.

Given the close proximity of the application site to neighbouring dwellings, in particular those to the west of the site, it is considered that any adverse impacts arising from the change of use, in terms of increase in noise disturbance on street activity or anti social behaviour, would have an unacceptable impact on the living conditions of the nearby

occupiers of neighbouring dwellings. The proposal is therefore contrary to Policy Ret 11 and Hou7 of the Edinburgh Local Plan and the Council's non statutory Guidance for Businesses.

Environmental Protection have not objected to the application. The proposed ventilation system is considered acceptable, subject to the imposition of a compliance condition ensuring that the equipment is installed in accordance with the details shown on the submitted plan.

c) Whether the proposal will have any transport or parking implications

Transportation have not objected to the proposal. Zero parking provision is considered acceptable for this proposal.

d) any public comments have been addressed

Six letters of representation have been received, from five nearby residents raising the following objections:

- Noise, particularly late at night.
- Smells arising from the use.
- Increase in litter.
- Encourage groups to congregate outside/anti social behaviour.

These comments have been addressed in section 3. b above.

-Concerns that the area to the front of 7-9 Broomhouse Market will have tables and chairs on the pathway.

The applicant would be required to apply for a Tables and Chairs permit from the Council, prior to placing any tables or chairs on the public highway.

-Parking and congestion issues.

Transportation have not objected to the proposal. This has been addressed in section 3. c above

e) Equalities and Human Rights

The application has been assessed in terms of equalities and human rights and no adverse impact has been identified.

Conclusion

Given the close proximity between the application site and nearby neighbouring dwellings, it is considered that the proposed change of use from a shop to a hot food takeaway would result in an unacceptable impact on the living conditions of nearby residents in terms of noise, disturbance on street activity or anti social behaviour. The proposal is therefore contrary to Policies Ret 11 and Hou 7 of the Edinburgh Local Plan and the Council's non statutory Guidance for Business.

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

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

## Reasons:-

1. Given the close proximity between the application site and nearby neighbouring dwellings, it is considered that the proposed change of use from a shop to a hot food takeaway would result in an unacceptable impact on the living conditions of nearby residents in terms of noise, disturbance on street activity or anti social behaviour. The proposal is therefore contrary to Policies Ret 11 and Hou 7 of the Edinburgh Local Plan and the Council's non statutory Guidance for Business.

## Risk, Policy, compliance and governance impact

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**4.1** Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

## Equalities impact

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### **5.1 The equalities impact has been assessed as follows:**

The application has been assessed and has no impact in terms of equalities or human rights.

## Consultation and engagement

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### **6.1 Pre-Application Process**

There is no pre-application process history.

### **6.2 Publicity summary of representations and Community Council comments**

Six letters of representation have been received, from five neighbouring occupiers, objecting to the application.

## Background reading / external references

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- To view details of the application go to
- [Planning and Building Standards online services](#)

## **Statutory Development**

### **Plan Provision**

The Edinburgh Local Plan and relevant non statutory guidance.

### **Date registered**

13 February 2019

### **Drawing numbers/Scheme**

01

Scheme 1

David R. Leslie  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council

Contact: Astrid Walker, Planning Officer  
E-mail:astrid.walker@edinburgh.gov.uk Tel:0131 529 3620

## **Links - Policies**

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### **Relevant Policies:**

#### **Relevant policies of the Local Development Plan.**

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.

LDP Policy Ret 10 (Alternative Use of Shop Units in Other Locations) sets out the criteria for assessing the change of use of a shop unit outwith defined 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.

#### **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

## Consultations

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### Environmental Protection

The applicant proposes the conversion of a shop which is located in a single storey terrace of shops to a hot food takeaway. Two storey residential properties are situated to the East, West and South of the proposed development. An extract canopy is to be installed above all cooking equipment which is to be capable of achieving 30 air changes per hour. The outlet of the extraction system is to be located above the level of openable windows on the nearby residential properties and is to be fitted with a venturi to ensure the ventilation reaches an upward velocity of at least 15 metres per second.

Environmental Protection therefore has no objections to this proposed development subject to the following condition:

The ventilation system shall be installed in accordance with the design as detailed on drawing 001 submitted in support of planning application 19.00633/FUL.

### Roads Authority

No objections to the application.

#### Note:

The existing zero parking provision is considered acceptable for this development.

END

# Comments for Planning Application 19/00633/FUL

## Application Summary

Application Number: 19/00633/FUL

Address: 7 - 9 Broomhouse Market Edinburgh EH11 3UU

Proposal: Change of Use from shop to hot food takeaway

Case Officer: Astrid Walker

## Customer Details

Name: Mrs Alice Coppins

Address: 8 Broomhouse Market Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: My reason for objecting is that I don't want to be kept awake at night by people making loud noise outside my house

# Comments for Planning Application 19/00633/FUL

## Application Summary

Application Number: 19/00633/FUL

Address: 7 - 9 Broomhouse Market Edinburgh EH11 3UU

Proposal: Change of Use from shop to hot food takeaway

Case Officer: Astrid Walker

## Customer Details

Name: Mr James McIntyre

Address: 8 Broomhouse Market Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Number 9 of the property 7-9 Broomhouse Market is currently being used as a stock room for property number 11 Broomhouse Market and I have been informed that the area at the front of 7-9 Broomhouse Market is intending on having tables and chairs on the pathway.

# Comments for Planning Application 19/00633/FUL

## Application Summary

Application Number: 19/00633/FUL

Address: 7 - 9 Broomhouse Market Edinburgh EH11 3UU

Proposal: Change of Use from shop to hot food takeaway

Case Officer: Astrid Walker

## Customer Details

Name: Mr Mark Peart

Address: 5 Broomhouse Place North Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am very concerned about the noise level coming from a working kitchen close to the rear of my property, especially late at night, but I am more concerned about the smell that will inevitably come from the hot food shop. My property is in very close proximity, and to the east of the shop, and with the prevailing easterly wind, will constantly be showered with any odours coming from the shop, no matter how tall the kitchen chimney is. Myself and my young children use our rear garden a lot during the warmer months, for drying clothes and recreation, and do not want to have to stop using it because of the bad smells that comes from a hot food shop.

# Comments for Planning Application 19/00633/FUL

## Application Summary

Application Number: 19/00633/FUL

Address: 7 - 9 Broomhouse Market Edinburgh EH11 3UU

Proposal: Change of Use from shop to hot food takeaway

Case Officer: Astrid Walker

## Customer Details

Name: Mrs Alice Coppins

Address: 8 Broomhouse Market Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the planning of a hot food because the area from the shop to our house is quite small we have a lot of problems all ready with litter and people hanging about in groups the shop here closes at 8-30 every week days and that's bad enough this area is to small for a hot food shop what will happen when the community centre re-opens it should have a big cafe there the centre has been called the hub of the community and would like people to go there.

# Comments for Planning Application 19/00633/FUL

## Application Summary

Application Number: 19/00633/FUL

Address: 7 - 9 Broomhouse Market Edinburgh EH11 3UU

Proposal: Change of Use from shop to hot food takeaway

Case Officer: Astrid Walker

## Customer Details

Name: Mrs Marge Hambling

Address: Broomhouse place north Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Parking, traffic, anti social gatherings?

more residents especially in Broomhouse place north should be notified of this as it is pensioners homes this will cause more traffic & noise in their street

# Comments for Planning Application 19/00633/FUL

## Application Summary

Application Number: 19/00633/FUL

Address: 7 - 9 Broomhouse Market Edinburgh EH11 3UU

Proposal: Change of Use from shop to hot food takeaway

Case Officer: Astrid Walker

## Customer Details

Name: Miss E Byrne

Address: Broomhouse place north Edinburgh

## Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Really not happy about this

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Tel: 0131 529 3550 Fax: 0131 529 6206 Email: [planning.systems@edinburgh.gov.uk](mailto:planning.systems@edinburgh.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100164819-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

You must enter a Building Name or Number, or both: \*

First Name: \*

Building Name:

Last Name: \*

Building Number:

Telephone Number: \*

Address 1 (Street): \*

Extension Number:

Address 2:

Mobile Number:

Town/City: \*

Fax Number:

Country: \*

Postcode: \*

Email Address: \*

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Asif"/>	Building Number:	<input type="text" value="7-9"/>
Last Name: *	<input type="text" value="Hussain"/>	Address 1 (Street): *	<input type="text" value="Broomhouse Market"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH11 3UU"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="7-9 BROOMHOUSE MARKET"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="EDINBURGH"/>
Post Code:	<input type="text" value="EH11 3UU"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="671335"/>	Easting	<input type="text" value="320179"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Application for planning permission for change of use from shop to hot take-away.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Appeal Statement attached.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Planning Appeal Statement to LRB Petition in support of proposal

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

19/00633/FUL

What date was the application submitted to the planning authority? \*

13/02/2019

What date was the decision issued by the planning authority? \*

17/04/2019

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## **Declare – Notice of Review**

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Nicolas Whitelaw

Declaration Date: 06/06/2019

## **Request to the Local Review Body**

**within the terms of (The Town and Country Planning (Appeals) (Scotland) Regulations 2013))**

- in respect of the Local Delegated Decision to refuse an application for planning permission for change of use from shop to hot take-away.

**Planning Reference:** 19/00633/FUL

**Address of property:** 7-9 Broomhouse Market, Edinburgh, EH11 3UU

### **Summary of Appeal:**

We object to the reasons given for refusal in the decision notice on the grounds that we believe:

1. We disagree with the City of Edinburgh Councils interpretation of Edinburgh City Local Plan Policy Hou 7 and Ret 11, in that the hot food takeaway is unlikely to have a significant material detrimental impact to local residents, through employing appropriate mitigation measures such as existing CCTV to minimise local disturbances to neighbouring properties.

2. Again it is difficult to gauge what is considered an unacceptable level of disturbance, etc, as the proposal does not need to conflict with Policy Hou 7 and Ret 11 if the application of change of use from empty shop unit to hot food takeaway is dealt with through relevant planning conditions, and the City of Edinburgh's Environmental Protection team and Police Scotland had no objections to the proposal.

3. We hope to have alleviated any concerns regarding smells and litter as a result of the proposal.

4. The applicant believes that there is more local support for the proposal than against it, as the area currently lacks such a facility, and there are no alternative locations available in the vicinity.

### **Site History**

There is no relevant planning history for the site.

### **Background to application**

The proposed application site is located at 7-9 Broomhouse Market, Broomhouse, Edinburgh.

The vacant ground floor premises forms part of a small single storey shopping parade and is located immediately between two outlets, community one stop shop and Broomhouse convenience store. There are two storey residential properties located across the pedestrian street.

Planning application 19/00633/FUL was registered by the City of Edinburgh Council on the 13<sup>th</sup> of February 2019, and was refused consent on the 17<sup>th</sup> April 2019.

The application has been refused on the following grounds made by residents of 4 nearby households:

- Noise, particularly late at night.
- Smells arising from the use.
- Increase in litter.
- Encourage groups to congregate outside/anti social behaviour.

Dealing with each of these points in turn, in terms of noise, there are customers entering and exiting the Broomhouse convenience store up til 20:30 each evening. No details have been given as to the proposed opening hours, and this could be addressed through the use of prescriptive planning conditions.

In terms of smells emanating from the premises, the elevated flue would dispense any odours above the window height of any surrounding properties, and the planning case officer makes no mention of the issue in her report of handling.

In reference to potential increase in litter, it is expected that the vast majority of local customers would be collecting food for consumption at home, and would therefore use their own waste bins for proper disposal. There is nowhere immediately suitable for the external consumption of goods as there are no seating areas in the surrounding area. There are two bins on Broomhouse Market.

As already stated, local residents will be used to the ambient noise of people outside entering and leaving the existing units. It remains unclear why this proposal is not deemed acceptable to the amenity of neighbouring residents. The street has CCTV at either end, and the premises would also have CCTV. This alongside responsible management and appropriate community policing should act as a deterrent to any potential anti social behaviour.

The units were built to be used primarily for the benefit of local residents and this proposal would lead to an vacant commercial property coming back into use.

The reasons for refusal are entirely speculative and therefore there is no way of knowing if the proposal would lead to a loss of local amenity, and in any case there remains the opportunity to implement planning conditions to minimise and mitigate any potential disturbances.

## **Precedents**

There are many other hot food takeaways in operation in comparable residential areas across the city of Edinburgh, many located on the ground floor of tenement buildings. The nearest equivalent hot food outlet, the Bodrum Express is located over 400m away at Parkhead, at Parkhead Gardens, and adjoins residential properties.

## **City of Edinburgh Local Development Plan**

The applicable policies in relation to the application and appeal are:

### Policy Hou 7 Inappropriate Uses in Residential Areas

*Developments, including changes of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.*

There is no evidence provided in the handling report to indicate that the proposal would lead to a detrimental effect on the living conditions for local residents, instead it is just conjecture, based entirely on speculation. We hope to show that some of these concerns are unfounded and believe that such concerns over anti social behaviour, etc, can be overcome through using mitigation measures alluded to above and through planning conditions. Although some residents have objected to the proposal, there are a considerable number of local residents who would welcome the proposal. Additionally, Police Scotland and Environmental Protection have not raised any concerns.

The policy below is also relevant.

#### Policy Ret 11 Food and Drink Establishments

*The change of use of a shop unit or other premises to a licensed or unlicensed restaurant, café, pub, or shop selling hot food for consumption off the premises (hot food take-away) will not be permitted:*

- a) if likely to lead to an unacceptable increase in noise, disturbance, on-street activity or anti-social behaviour to the detriment of living conditions for nearby residents or*
- b) in an area where there is considered to be an excessive concentration of such uses to the detriment of living conditions for nearby residents.*

The proposal will obviously have some impact on the local amenity of the area, as it will bring back footfall to a currently disused unit, although it is unclear how this can be considered 'unacceptable', when taking into account the existing CCTV surveillance, and limited hours, and elevated flue exit. No details were provided in the application as to the hours of operation, which can be addressed through planning conditions.

#### **Use Class Order**

The premises are now vacant and were last used as a general convenience which is classified as Use Class 1 – Shops. This application seeks to change the use of the premises to Class 3 – Food and Drink.

#### **Summary**

Although there were some objections from nearby residents close to the property, there have been no objections received from the Police or Environmental Protection.

We have addressed each of the following concerns raised by local residents who have objected and demonstrated that each of these concerns can be overcome through appropriate mitigation measures.

In addition, there is considerable popular support for the proposal as the neighbourhood currently lacks such a facility as indicated by the petition attached with this appeal.

#### **Request to Local Review Body:**

We ask that the Local Review Body consider the above arguments and review the planning application for change of use of existing shop to hot food take-away within the terms of The Town and Country Planning (Appeals) (Scotland) Regulations 2013).

Nicolas Whitelaw MRTPI.

Agent acting on behalf of Mr Asif Hussain 6<sup>th</sup> June 2019

**Proposal Details**

Proposal Name	100164819
Proposal Description	Appeal to LRB for refusal of change of use from vacant shop to hot food takeaway.
Address	7-9 BROOMHOUSE MARKET, EDINBURGH, EH11 3UU
Local Authority	City of Edinburgh Council
Application Online Reference	100164819-001

**Application Status**

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

**Attachment Details**

Notice of Review	System	A4
Notice of review to LRB	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0