

Policy **Ret 11** resists such changes of use 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 in any area where there is considered to be an excessive concentration of such uses, to the extent that it is to the detriment of living conditions for nearby residents.

The **Guidance for Businesses** advises that hot food take-away proposals in the areas of restraint will only be accepted if there will be no adverse impact upon existing residential amenity caused by night-time activity. This is a premises that has already been granted planning permission.

Comparable premises nearby include the Clamshell at 148 High Street, which opens until 0100am and is below flatted property, Yum Yum Kebab at 18 West Port, open until 0300am, Salt & Vinegar at 75 Lothian Road, below residential and open until 0200am, Che on Forrest Road, open until 0200am at weekends and with three floors of residential above, Bobby's Kebab House at 21 Candlemaker Row, open until 0200am, Cappadocia at 10 Forrest Road open until 0200/0300am and below three floors of flats.



1 - Bobby's Kebab House



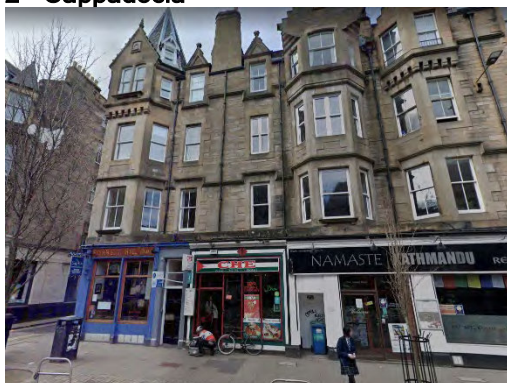
4 - The Clam Shell



2 - Cappadocia



5 - Salt & Vinegar



3 - Che



6 - Yum Yum Kebab



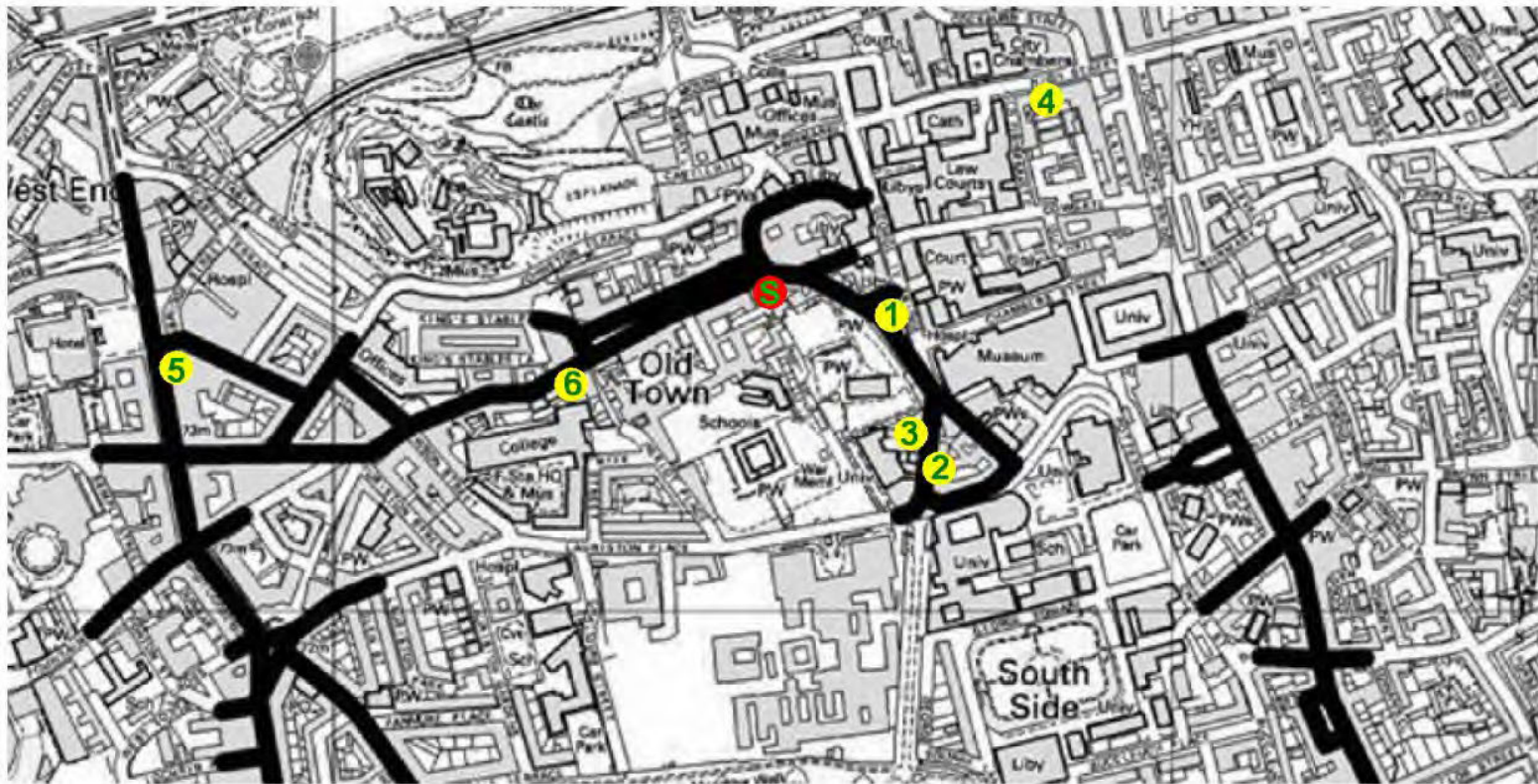


Figure 8B: The locations of the six local competitors

Of these six local competitors listed above and shown in the images on page 8, all but one of these are in the area of restraint. The one that is not, is still located in a building with four floors of accommodation above which includes 5 residential flats (according to the assessors register).

Policy Hou 7 is not particularly relevant in this location, as the area could not be rightly described as being a residential area. It is in the City Centre and is on a designated shopping frontage. Paragraph 234 advises “*The intention of the policy is firstly, to preclude the introduction or intensification of non-residential uses incompatible with predominantly residential areas and secondly, to prevent any further deterioration in living conditions in more mixed use areas which nevertheless have important residential functions*”. Whilst it certainly contains residential property, it is not a predominantly residential area.

The Grassmarket is not a quiet urban area, but a busy town centre with a significantly higher ambient noise level. It is more likely that the normal ambient noise levels maybe as high as 75db. The extension of opening by three hours will not result in a significant increase in noise levels experienced by neighbouring residents. A Freedom Of Information request was submitted to the Council in Jul 2022, and the response, summarised on page 5 above, indicates very low levels of complaint since 2015.

The Grassmarket is a popular nightspot destination for locals and tourists alike, containing large numbers of restaurants, cafes, pubs and bars, and with also several night clubs in nearby streets. There are significant numbers of properties in the local area already opening well beyond 1100pm, see the table in figure 9 below.

Late Night Opening Premises in vicinity of 87 Grassmarket	
Premises	Open Until
The Fiddlers Arms, 9-11 Grassmarket	12am - Sun -Wed, 1am Thurs - Sat
Biddy Mulligans, 94-96 Grassmarket	1am - 7 days
The Last Drop, 74-78 Grassmarket	12am Sun - Thurs, 1am Fri - Sat
Beehive Inn, 18-20 Grassmarket	11pm - Sun - Wed, 12pm Thurs - Sat
Maggie Dickson's Pub, 92 Grassmarket	1am - 7 days
Cold Town House, 4 Grassmarket	12am - Sun -Thurs, 1am Fri - Sat
The White Hart Inn, 32 Grassmarket	12am -Sun - Thurs, 1am Fri - Sat
The Black Bull, 12 Grassmarket	11pm - Mon - Wed, 12pm Sun & Thurs, 1am - Fri & Sat
The Three Sisters, 139 Cowgate	1am Sun -Tues, 3am - Wed - Sat
Brewdog Edinburgh, 143 Cowgate	12am - Sun -Thurs, 1am Fri - Sat
Bannerman's Bar, 212 Cowgate	1am - 7 days
Subway, 69 Cowgate	3am - 7 days
Legends, 71 Cowgate	3am - 7 days
The Bongo Club, 66 Cowgate	3am - Tues, Fri & Sat
Sneaky Petes, 73 Cowgate	3am - 7 days
Supercube Karaoke Bar, 237 Cowgate	2am - 6 days
Stramash, 207 Cowgate	3am - 7 days
OX184, 184-186 Cowgate	3am - 6 days
Bar Salsa, 3 Cowgatehead	1am - 7 days
Greyfriars Bobby's Bar, 30-34 Candlemaker Row	12am - Sun -Thurs, 1am Fri - Sat
Kick Ass Bar, -- Candlemaker Row	12am - 7 days
The Oz Bar, 33 Candlemaker Row	1am - 7 days
Under the Stairs, 3A Merchant Street	12am - Sun - Wed, 1am Thurs - Sat
Dropkick Murphys, 7 Merchant Street	3am - 5 days
The Bow Bar, 80 West Bow	12am - 7 days
Liquid Room, 9C Victoria Street	3am - 7 days
Finnegan's Wake, 9B Victoria Street	1am - 7 days
Pilgrim Bar, 3 Robertson's Close	1am - 7 days
The Hive Nightclub & Venue, 15-17 Niddry St	3am - 7 days

Figure 9: Local late opening leisure uses

The ambient noise levels and the amenity of neighbouring residents should not be adversely affected. The proposal will therefore satisfy policies Hou 7 and Ret 11 of the ELDP and also the **Guidance for Businesses**.

## Design and Access

As this is an existing building and the proposal is only for a change of hours, this will not be an issue. The site has good access to public transport, with many services running along George IV Bridge, including night services.

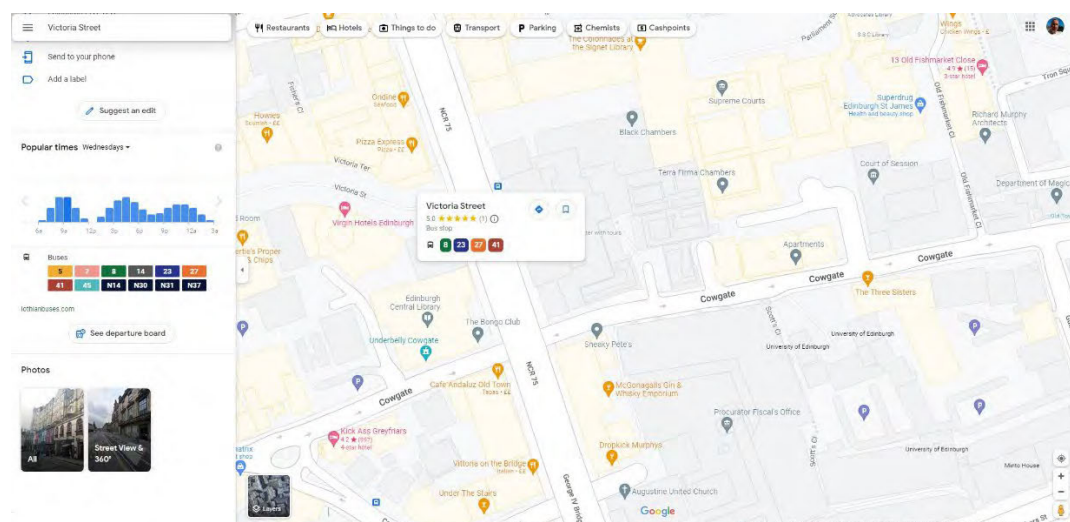


Figure 10: Bus service availability

## **Local Support**

The applicant has carried out a brief survey locally, many of which are from local businesses. This was carried out during November 2022, and copies of the responses are appended to this statement.

The results clearly indicate a significant level of support and respect for this local business.



## 5. Conclusions

The critical determining issue will be the impact upon the neighbouring residential amenity.

The character of the area is principally of bars, restaurants and cafés with some shopping. The extension of hours of this single unit will have very little cumulative impact on the noise levels in the vicinity.

The small size of the unit, the existing high ambient noise levels will mean that the neighbouring residents on the upper floors would not be adversely affected by the increased hours. The increase in opening hours will be entirely in keeping with the character of the area. Many of the local licensed premises have extended their hours of opening since the chip shop opened, and a large percentage of the business comes from people leaving these premises, so there has been a fall in income, and the owners feel that they are being left behind.

The proposed increase in hours will enable the business to operate more effectively in light of competition and expectations of customers. The viability of the unit is marginal as things presently stand. It is a facility that is needed at these extended hours in this location.

The proposal will therefore uphold all of the policies and objectives of the local plan in respect of the character of the area, its vitality and the amenity of existing and future occupants.



## **Appendix A - List of all relevant Policies of the Edinburgh Local Development Plan November 2016**

**Policy Des 5 Development Design - Amenity** - Planning permission will be granted for development where it is demonstrated that:

- a) the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise, daylight, sunlight, privacy or immediate outlook
- b) the design will facilitate adaptability in the future to the needs of different occupiers, and in appropriate locations will promote opportunities for mixed uses
- c) community security will be promoted by providing active frontages to more important thoroughfares and designing for natural surveillance over all footpaths and open areas
- d) a clear distinction is made between public and private spaces, with the latter provided in enclosed or defensible forms
- e) refuse and recycling facilities, cycle storage, low and zero carbon technology, tele-communications equipment, plant and services have been sensitively integrated into the design

**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.

**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.

## **B - Other relevant policies and documents**

- CEC, Guidance for Businesses; November 2021
- SG, Scottish Planning Policy, December 2020



## APPENDIX C - LETTERS OF SUPPORT

To Whom it may concern

My name is Yasin Ozkan and I run the Castle Rock chip shop on 87 Grassmarket, EH1 2HJ.

We have recently lodged an application with the Planning Department to have our opening hours extended from 12.00a.m. to 2.00a.m.

We are applying for the extended opening hours mainly as a service for the local businesses and the workers working in the hospitality venues in the Grassmarket and the surrounding areas. Many of the pubs close at 1.00a.m. and the staff would like to come to the Castle Rock for their supper, however what is currently happening is that the staff have to phone the Castle Rock before 12.00a.m. when we prepare the food and take it to them prior to us closing at 12.00a.m. therefore the food is cold by the time they finish work. We would like to be able to provide a service not only for locals and tourists but for the local workforce as well. We are asking local businesses for a statement of their needs and we will attach this to our planning application with our supporting statement.

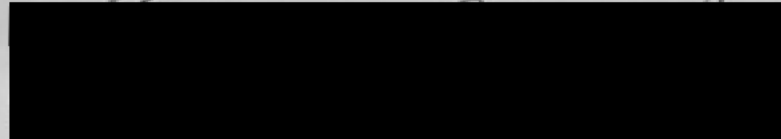
If you are happy with Castle Rock's efforts in attempting to have extended hours to 2.00a.m please can you sign agreeing to the statement below.

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I Caitlin Clearwater understand that there is a proposal to increase the opening hours of the Castle Rock chip shop to 2.00a.m, the chip shop has been there for many years and we have never had any problems with them. I agree that the premises is a great addition to the Grassmarket and I hope that your department can support this application.

Name: Caitlin Clearwater

Business name: Reception staff at Apex Hotels

Comments on our business needs:

Signature: 

Date:

10/11/2022