

Development Management Sub Committee

Wednesday 18 March 2020

**Application for Planning Permission 18/09880/FUL
at 12 Bank Street, Edinburgh, EH1 2LN.
Change of use of the ground floor shop from a record shop
to a restaurant.**

Item number

Report number

Wards

B11 - City Centre

Summary

The proposal complies with the adopted Edinburgh Local Development Plan and the Council's non-statutory Guidance for Businesses, is acceptable at this location and will have no adverse impact on neighbouring residential amenity. The impact on the character and appearance of the conservation area or the special historical and architectural interest of the listed building are acceptable.

Links

[Policies and guidance for this application](#)

LDPP, LDEL02, LDES05, LRET10, LRET11, LEN04, LEN06, NSBUS, NSLBCA,

Report

Application for Planning Permission 18/09880/FUL at 12 Bank Street, Edinburgh, EH1 2LN Change of use of the ground floor shop from a record shop to a restaurant.

Recommendations

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

Background

2.1 Site description

The site is a ground floor and basement retail unit on the corner of Bank Street. The property is flanked by a retail unit to one side and a cafe to the other. Residential properties are above. The site is a B listed building, circa 1810, with later alterations and additions in 1898 (Listing date: 12/12/1974; Listing reference: LB3006). The site is within the Old and New Towns of Edinburgh World Heritage Site. This application site is located within the Old Town Conservation Area.

2.2 Site History

10.04.2019 - Alleged unauthorised change of use from Class 1 to Class 3 (19/00225/ECOU) Case closed no breach was found.

25.07.2019 - Alleged unauthorised change of use from class 1 to class 3 (case still open) (19/00564/ECOU).

14.11.2018 - Application for Listed Building Consent: Proposed internal alterations to the ground floor shop property (decision pending) (application reference number: 18/09881/LBC).

Main report

3.1 Description of the Proposal

Planning permission is sought for the change of use from a Class 1 (retail) to a Class 3 (restaurant).

Supporting Documents

As part of this application the following documents have been submitted:

- Design Statement and
- Noise Impact Assessment.

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 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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 proposed use is acceptable in this location;
- b) the proposal will materially impact on residential amenity;
- c) the proposal is of acceptable design and will not be detrimental to the character and appearance of the conservation area;
- d) the proposal will not be detrimental to the special interest of the listed building and
- e) any matters raised in representation have been addressed.

a) Principle of Use

The site is located within the City Centre.

Local Development Plan (LDP) Policy Del 2 (City Centre) states that a proposal will be acceptable when it is for a use or a mix of uses appropriate to the location of the site, its accessibility characteristics and the character of the surrounding area.

The Council's non-statutory Guidance for Businesses states that changes of use from a class 1 to a class 3 will be determined on a case by case basis. Regard will be given to:

- Concentration of such uses in the locality;
- The scale of the activities and character and appearance of the property;
- Other considerations are the impact on vitality and viability, the effect on amenity and potential road safety and parking problems.

LDP Policy Ret 10 (Alternative Use of Shop Units in Other Locations) sets out that a proposal will be acceptable when the unit is located within a predominantly commercial area, whether the proposal would be compatible with the character of the area.

LDP Policy Ret 11 (Food and Drink Establishments) states that 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 site is within the City Centre where a mix of uses are acceptable. The site is on a major transportation route with easy access to public transport and accessible by walking/cycling. The class 3 use is compatible with the character of the surrounding area, and would not lead to an increase in noise, disturbance, on-street activity or anti-social behaviour. A noise impact assessment has been submitted as part of the application (this is discussed in more detail in section 3.3b)).

The Roads Authority has offered no objection to the proposal.

The proposal is acceptable in principle.

b) Amenity

LDP Policy Des 5 (Development Design - Amenity) states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected and that future occupiers have acceptable levels of amenity in relation to noise.

As part of the application process a noise impact assessment has been submitted. This assessment has demonstrated that mitigation measures can ensure that commercial noise within the proposed class 3 unit are within acceptable levels. It also demonstrates that noise from proposed mechanical plant is within acceptable levels. Conditions have been attached to reflect this.

The proposal does not raise any concerns regarding neighbouring amenity.

In the future, if a nuisance or noise disturbance was reported from the site then there are statutory provisions in order to mitigate these concerns under the Environmental Protection Act 1990.

c) Conservation Area

No external alterations are proposed. As per section 3.3 a), the use is acceptable in this location. There will be no impact on the character and appearance of the conservation area.

d) Listed Building

Section 59(1) and (3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 provides:

(1) In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses;

(3) In this section, "preserving", in relation to a building, means preserving it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character, and "development" includes redevelopment.

This assessment has been made with the parameters of having special regard to the desirability of preserving the character of these buildings or their settings or any features of special architectural or historic interest which they possess.

Historic Environment Scotland's (HES) guidance notes on Managing Change in the Historic Environment set out the principles that apply to altering historic buildings.

HES guidance note on Managing Change in the Historic Environment: Interiors sets out that *an alteration to a historic building should protect its character. The contribution of the interior to that character must therefore be fully understood before considering how to alter the building. Alterations should be carefully planned and located to best protect the interest of the internal spaces. In general, the principal spaces in a building are more sensitive to change as these are the spaces that normally make the most significant contribution to its character. Sometimes secondary spaces such as basement kitchens or attic rooms are sensitive to change, for example where they survive in their original form, or are particularly noteworthy*

LDP Policy Env 4 Listed Buildings- Alterations and Extensions states that proposals to alter a listed building will be permitted where those alterations are justified; will not result in unnecessary damage to historic structures or result in a diminution of the buildings interest; and any additions would be in keeping with other parts of the building.

The internal alterations will not impact on any historical architectural features and will therefore not adversely impact on the special architectural or historic interest of the listed building. The lowered ceiling will leave the existing cornicing in place and untouched and the removal and addition of stairs will not result in the loss or damage to the special character of the building.

The impact of the proposal on the listed building is acceptable, and comply with LDP Policy Env 4 and Section 59(1) and (3) of the Listed Buildings and Conservation Areas Act.

e) Public Comments

Material Considerations

- Over provision of restaurants/takeaways in the area: this has been addressed in section 3.3a);
- Impact on amenity: this has been addressed in section 3.3b); and
- Loss of historic fabric: this has been addressed in section 3.3d).

Non-Material Considerations

- Disruption from construction.

Conclusion

The proposal complies with adopted Local Development Plan, is acceptable at this location and will have no adverse impact on neighbouring residential amenity. The impact on the character and appearance of the conservation area and the special historical and architectural interest of the listed building are acceptable and comply with Section 59 and 64 of the Listed Buildings and Conservation Areas Act.

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

3.4 Conditions/reasons/informatives

Conditions

1. Prior to the occupation of the development the mitigation measures, as detailed in the Thomson Acoustic Engineering Noise Impact Assessment, dated 27 September 2019, sections 6.2 -6.18 shall be carried out in full to the satisfaction of the Council as Planning Authority.
2. Prior to the use being taken up, the kitchen ventilation system as detailed in approved drawing 02A, dated 14.11.18, ducted to roof level and capable of achieving 30 air changes per hour, to ensure that no cooking odours escape or are exhausted into any neighbouring premises, shall be installed and operational.

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.

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:

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 neighbour notification and advertisement in the Edinburgh Evening News, ten letter of representation have been received. Nine are objecting to the proposal and one is making neutral comments.

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 City Centre, Edinburgh World Heritage Site and the Old Town Conservation Area.

Date registered

28 November 2018

Drawing numbers/Scheme

01, 02A, 03A,

David R. Leslie

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 Del 2 (City Centre) sets criteria for assessing development in the city centre.

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

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 Env 4 (Listed Buildings - Alterations and Extensions) identifies the circumstances in which alterations and extensions to listed buildings will be permitted.

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

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.

Non-statutory guidelines 'LISTED BUILDINGS AND CONSERVATION AREAS' provides guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

Appendix 1

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Consultations

Environmental Assessment

Environmental Protection has no objection subject to the attached condition:

1. prior to the occupation of the development the mitigation measures, as detailed in the Thomson Acoustic Engineering Noise Impact Assessment, dated 27 September 2019, sections 6.2 -6.18 shall be carried out in full to the satisfaction of the Council as planning authority.
2. Prior to the use being taken up, the kitchen ventilation system as detailed in approved drawing 05, dated 14.11.18, ducted to roof level and capable of achieving 30 air changes per hour, to ensure that no cooking odours escape or are exhausted into any neighbouring premises, shall be installed and operational.

The property is the ground floor and basement of a traditional tenement building, with five storeys of residential accommodation above. The proposal is to convert this property from a retail store to a restaurant.

Environmental Protection raised concerns in relation to noise from commercial activities (such as impact noise, kitchen noise, music, vocals etc) potentially affecting the amenity of the proposed residents, as well as mechanical plant noise. The applicant therefore submitted a Noise Impact Assessment from Thomson Acoustic Engineering to address these concerns.

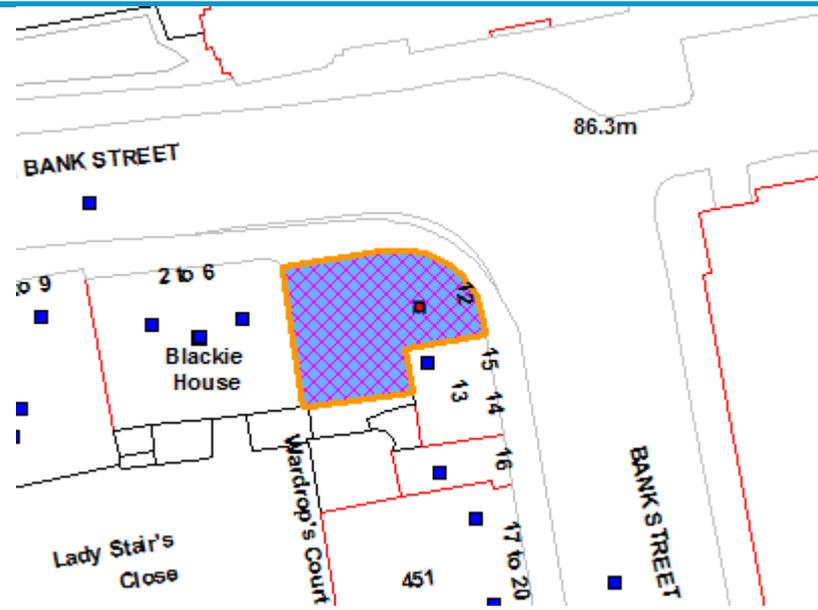
The Noise Impact Assessment demonstrates that mitigation measures can ensure that commercial noise within the proposed flats are within acceptable levels. It also demonstrates that noise from proposed mechanical plant is within acceptable levels.

Environmental Protection can therefore support this application if the above recommended conditions are attached to the planning permission.

Roads Authority

No objections to the application.

Location Plan



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