

Development Management Sub Committee

Wednesday 17 June 2020

**Application for Planning Permission 20/00170/FUL
at 64 Seafield Road, Edinburgh, EH6 7LW.
Resubmission of application under S42 of the Planning Act
to implement use of no. 64 Seafield Road (existing B&M
store) without compliance with Condition G08 of planning
consent A 02910 96 to permit the sale of food goods from
the retail unit to a maximum of 1033 sq. net (sales) floor
area for convenience goods.**

Item number

Report number

Wards

B14 - Craigentinny/Duddingston

Summary

The proposal will not address a qualitative or quantitative deficiency or meet the needs of an expanding residential or working population within its proposed catchment. The proposal is not located in a town or other commercial centre and it is not, nor likely to be, accessible by a choice of transport modes or reduce the length and overall number of shopping trips made by car.

The removal or amendment of Condition G08 attached to planning permission A/02910/96 would be contrary to Policy Ret 1 and Policy Ret 6 of the Local Development Plan. There are no material considerations which should outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LRET01, LRET06,

Report

Application for Planning Permission 20/00170/FUL at 64 Seafield Road, Edinburgh, EH6 7LW. Resubmission of application under S42 of the Planning Act to implement use of no. 64 Seafield Road (existing B&M store) without compliance with Condition G08 of planning consent A 02910 96 to permit the sale of food goods from the retail unit to a maximum of 1033 sq m net (sales) floor area for convenience goods.

Recommendations

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

Background

2.1 Site description

The application relates to commercial premises located on the southern side of Seafield Road within the Seafield Road Retail Park. No.64 Seafield Road is occupied by 'B&M' and is the easternmost and largest of the three connected premises. No.65 Seafield Road to its immediate west is occupied by 'Carpentryright' and No.66 Seafield Road is currently vacant.

2.2 Site History

18 June 1997 - Planning permission granted to demolish existing buildings, erect 2 non-food retail warehouses with associated parking, landscaping and access (as amended) (application reference: A/02910/96). Condition G08 restricted the retail use to non-food only in order to ensure that the level of off street parking is adequate.

5 November 2019 - Planning permission under Section 42 refused to implement use of no. 64 Seafield Road (existing B&M store) without compliance with Condition G08 of planning consent A/02910/96 to permit the sale of food goods from the retail unit (application reference: 19/03269/FUL)

Main report

3.1 Description of the Proposal

Planning permission under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) is sought for the development of No.64 Seafield Road without compliance with Condition G08 attached to planning permission A/02910/96. The condition states "*the premises being used for the sale by retail of non-food goods only and for no other purpose*". The proposal relates to No.64 Seafield Road only and seeks the removal or an amendment of Condition G08 to allow the premises to be used for the sale of food goods.

The proposal would, in effect, change the retail offer from non-food to food retail which is materially different from the current restricted retail offer.

A Retail Impact Assessment (RIA) and a summary of non-statutory community consultation were submitted in support. The RIA was supplemented by a further explanatory statement. The RIA is available to view on the City of Edinburgh Council (CEC) Planning 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) condition G08 attached to planning permission A/02910/96 should be removed or amended;
- b) there are any other material considerations and
- c) public comments have been addressed.

a) Removal or Amendment of Condition G08

An application made under Section 42 of the Town and County Planning (Scotland) Act 1997 (as amended) requires the Planning Authority to consider only the question of the conditions subject to the planning permission. The proposal is seeking the removal or amendment of Condition G08 which states, "*the premises being used for the sale by retail of non-food goods only and for no other purpose*".

As this change would lead to a materially different retail offer, the change from non-food to food retail requires a fresh assessment against Development Plan policies.

Local Development Plan (LDP) Policy Ret 1 states that planning permission will be granted for retail and other uses which generate a significant footfall including commercial use, offices, community and cultural facilities and where appropriate libraries, education and healthcare facilities following a town centre first sequential approach in the following order of preference:

- town centres (including city and local centres);
- edge of town centre;
- other commercial centre as identified in the LDP; then
- out of centre locations that are or can be made accessible by a choice of transport modes.

Where a retail or leisure development with a gross floorspace over 2,500 sqm, or occasionally for smaller proposals, is proposed outwith the town centre and contrary to the development plan, a retail impact analysis will be required sufficient to demonstrate that there is no significant adverse effect on the vitality and viability of existing town centres. Town and local centres within adjoining council areas will also be considered when assessing retail impact if they fall within the intended catchment area of the proposal.

No.64 Seafield Road has a gross floor area of 1,866 sqm and is not located within or adjacent to a town or other commercial centre. LDP Policy Ret 6 will only permit proposals for new retail development in out of centre locations if it has been demonstrated that:

- i) the proposal will address a quantitative or qualitative deficiency or will meet the needs of an expanding residential or working population within its catchment area;
- ii) all potential sites, either within or on the edge of an identified centre, have been assessed and can be discounted as unsuitable or unavailable;
- iii) the proposal will not have a significant adverse effect, either individually or cumulatively with other developments, on the vitality and viability of any existing centre; and
- iv) the site is or can be made easily accessible by a choice of transport modes and will reduce the length and overall number of shopping trips made by car.

i) Quantitative or Qualitative Deficiency or Expanding Population

Criterion i) of LDP Policy Ret 6 identifies four sub-criteria: quantitative deficiency, qualitative deficiency, expanding residential population or expanding working population. A proposal will be considered to comply with criterion i) of LDP Policy Ret 6 if it is demonstrated that it will address or meet one these four sub-criteria.

LDP Policy Ret 6 requires the definition of a catchment and this is justified within the RIA. It covers the Craigentenny and Restalrig areas, although the majority of Portobello has been included on the grounds that the proposal will serve this community until a 'Lidl' presence can be established in or closer to the town. There are concerns regarding this proposed catchment as it acts to exclude the impact of similar in nature stores which could reasonably be regarded as serving residents in this part of the city.

As the premises are located towards the western catchment boundary, the drive time from the proposal to its easternmost point, the furthest distance, is approximately 8 minutes. If this approach was used in all directions, the catchment should be extended to include the Meadowbank Sainsbury's and the Newkirkgate and Easter Road 'Lidl' stores. The RIA considers that a catchment should not be defined wholly by travel time or distance and suggests that a "critically important" factor is the location of similar in nature stores. It contends that the most relevant "competing" stores for 'Lidl' in Edinburgh are other 'Lidl' stores as they are selling the same goods at the same prices.

This application is assessing whether the sale of food goods should be permitted from No. 64 Seafield Road and it is noted that a catchment based on the specific needs, demands and experiences of an identified operator may not necessarily apply to other organisations. The principal material planning consideration is whether No.64 Seafield Road are suitable premises for any organisation to sell food goods and this requires an assessment of the proposal and its proposed catchment against the retail demand and capacity of Edinburgh at a city and sub-city level.

Will the Proposal Address a Quantitative Deficiency within its Proposed Catchment?

The Planning Authority, to inform the adopted LDP, carried out assessments of Edinburgh's retail demand and capacity. As a result, LDP Paragraph 80 states that *"there is not expected to be sufficient growth in retail spending over the next 5 years to support further expansion of commercial centres, whilst sustaining the existing network of towns and local centres"*. It goes on to outline that *"the view of retail analysis is that the rate of spending growth will be well below that experienced in recent decades and largely offset by factors such as efficient use of sales space and the continued increase in internet shopping"*.

The Edinburgh Commercial Needs Study: Retail and Leisure (CNSRL) was commissioned to inform City Plan 2030 and updates the city's retail outlook. It identifies the retail demand and capacity for Edinburgh between 2018 and 2028 and considers population, existing capacity and trends in consumer preferences such as on-line shopping. The CNSRL shows that overall demand for convenience retail floorspace will be met over the ten year period. Demand for comparison retail floorspace will be met for at least the first five years and identifies the city centre as the most suitable location for any additional capacity needed after 2023.

The CNSRL assesses convenience and comparison capacity at a sub-city level by separating Edinburgh into five zones. The premises are located in the 'East' zone. Residents' convenience expenditure potential in the 'East' zone is well below the turnover currently experienced and this is expected to continue up to 2028. Turnover only exceeds the average because there is a net inflow of expenditure from other zones and from outside Edinburgh. Stores would be undertrading if it was not for net inflows which suggests that there is not a lack of capacity in this part of the city. The most sustainable solution would be to provide additional retail provision outwith the city to reduce net inflows, which would in turn free up convenience capacity.

The RIA analyses the available expenditure and floorspace/turnover figures for the proposed catchment. It shows that the floorspace/turnover exceeds the level of available expenditure within the proposed catchment, or that there is no need for the new floorspace. The RIA then reduces the turnover of the Piershill 'Morrisons' and Portobello town centre by 50% on the grounds that part of the revenue generated comes from trade outwith the proposed catchment. This has the effect of reducing turnover to below the retail expenditure of the catchment population and consequently demonstrates that there is a need for additional floorspace. This 50% reduction has a significant effect. However, the Planning Authority considers that the reasons for doing this have not been suitably justified. The purpose of the turnover figure is to convert the existing retail floorspace within the catchment from sqm into a financial figure so that a comparison can be undertaken between expenditure and available floorspace. A reduction by half implies that 50% of floorspace will not be available which is regarded to be an unreasonable assumption and is not standard practice according to the most recent RIA research. Accordingly, it is not accepted that there is quantitative deficiency for the proposal to address.

The proposal does not comply with the quantitative deficiency sub-criteria of LDP Policy Ret 6 criterion i).

Will the Proposal Address a Qualitative Deficiency within its Proposed Catchment?

It has been stated that a "critically important" factor for 'Lidl' when defining a catchment is the location of similar in nature stores and other 'Lidl' premises. The only similar in nature retail provision within the proposed catchment is an 'Aldi' in Portobello with the Piershill 'Morrisons' sitting just outwith.

However, as previously outlined, it is considered that the definition of the catchment has acted to exclude similar in nature stores which could reasonably be regarded as serving the residents of this part of the city. With the premises sitting to the west of the proposed catchment, it is effectively suggesting that most of its trade will come from the east and that residents to the west will be less likely to be visit. The application of the already highlighted 8 minute drivetime for example, as a simple means to illustrate the catchment of other nearby similar in nature stores, would suggest that residents are currently adequately served by the Meadowbank 'Sainsbury's', by 'Lidl' from their Newkirkgate and Easter Road stores and the aforementioned Portobello 'Aldi' and Piershill 'Morrisons'.

Whilst 'Lidl' may consider that their presence is underrepresented, there are clearly a number of similar in nature retail stores which could reasonably be regarded as serving residents in this part of the city. It is also noted that many of these other stores are better connected by public transport and located in more densely populated areas. Accordingly, it is not accepted that there is qualitative deficiency for the proposal to address.

The proposal does not comply with the qualitative deficiency sub-criteria of LDP Policy Ret 6 criterion i).

Will the Proposal Meet the Needs of an Expanding Residential Population within its Proposed Catchment?

The RIA suggests that the proposal will meet the needs of an expanding residential population and identifies 12 residential developments, providing 1,503 units, within the proposed catchment. The CNSRL has assessed the city's population trends, and how this will impact on future expenditure, and concludes that growth in this part of the city will be flat. It is not deemed as reasonable to expect population growth between 1991 and 2011 to continue beyond 2020 and 10 of the 12 identified residential developments are either completed and occupied or close to being so. Accordingly, it is not accepted that there is an expanding residential population need for the proposal to meet.

The proposal does not comply with the expanding residential population sub-criteria of LDP Policy Ret 6 criterion i).

Will the Proposal Meet the Needs of an Expanding Working Population within its Proposed Catchment?

The RIA does not seek to justify that the proposal will meet the needs of an expanding working population. The only relevant allocations within the adopted LDP and the proposed catchment relate to the safeguarding of established employment sites in their current footprint which suggests that there will not be a significant expansion in the working population. Accordingly, it is not accepted that there is an expanding working population need for the proposal to meet.

The proposal does not comply with the expanding working population sub-criteria of LDP Policy Ret 6 criterion i).

ii) Sequential Approach to Site Selection

The RIA carried out a sequential approach to site selection and suggests that there are no suitable or available locations for the proposal either within or on the edge of an existing centre. The methodology and conclusion are accepted.

The proposal complies with criterion ii) of LDP Policy Ret 6.

iii) Impact on the Vitality and Viability of Existing Centres

The RIA determined the impact of the proposal on the vitality and viability of the Portobello, Leith/Leith Walk, Restalrig, Jock Lodge, Piershill and Easter Road town centres as well as the Meadowbank Retail Park and the city centre. The RIA suggests that the proposal will not have a significant adverse impact on these existing centres. The methodology and conclusion are accepted.

The proposal complies with criterion iii) of LDP Policy Ret 6.

iv) Accessibility and Impact on Car Shopping Trips

The nearest bus stop to the premises is located on Seafield Street. When this application was validated, it was served only by Lothian Bus 12 at 20 to 30 minute intervals. There are no bus stops between the premises and Portobello. Lothian Bus 12 will not serve Seafield Street during the tram extension works and it has currently been withdrawn entirely due to the COVID-19 pandemic. At the time of writing, Seafield Street is currently served only by Lothian Bus 1 at 30-minute intervals and it is the only bus stop nearby which could reasonable be considered to serve the proposal.

The RIA contends that there are 2,736 residents within an "easy walking distance". This figure has been calculated by determining the 2011 Census datazone population within an 800m radius of the premises. A percentage has been applied to the datazone populations as a means to exclude residents outwith the 800m radius. The RIA makes reference to 'Lidl' stores in Dalry and Wester Hailes where 39% and 30% visit on foot respectively.

Drawing an 800m radius to the premises to determine the number of residents within an "easy walking distance" is an unreasonable, 'as the crow flies', assessment which overlooks the overwhelming non-residential character of its surroundings and the pattern of roads and footpaths. The Dalry and Wester Hailes stores are located in significantly more densely populated areas which is evidenced by the number of properties within a 10 minute walk; 5,658 for the former and 2,219 for the latter. If walking time is considered rather than an 800m radius, there are only 421 properties within 10 minutes of the proposal, and this is clearly a result of the less densely populated nature of its surroundings and the pattern of roads and footpaths. A person residing at the junction between Restalrig Drive and Craigentenny Road for example falls within the 800m radius but would have a one way journey time on foot of 17 minutes. Whilst this may not preclude this resident from walking, it is less likely that they would choose to do so. Furthermore, many residents wishing to travel by bus would be required to take a connecting service and some on tributary streets have no service at all.

Only one of the 12 residential developments identified by the RIA falls within this 800m radius and consideration of this does not significantly increase the number of properties within a 10 minute walking distance. The likelihood of residents of the other identified sites visiting the proposal on foot is deemed extremely unlikely. Salamander Place is closer on foot to the Newkirkgate 'Lidl' for example and residents of 275 Portobello High Street would be required to embark on a 30 minute walk past a similar in nature store.

The premises have 119 car park spaces within its grounds and the Roads Authority confirmed that this provision could accommodate the proposal subject to conditions and informatives. The premises occupies an out of centre location which is not, nor likely to be, accessible by a choice of transport modes and most shopping trips will be by car given its generous parking provision, isolated location with respect to bus infrastructure, position on a main arterial route and low local resident population.

The proposal does not comply with LDP Policy Ret 1 or criterion iv) of LDP Policy Ret 6.

b) Other Material Planning Considerations

Environmental Issues

Environmental Protection has no objections to the proposal.

Economic Issues

Whilst it is estimated that 'Lidl' will generate between 30 to 35 full and part-time jobs, this would be offset by the loss of employment as a result of closing the existing 'B&M' store.

c) Public Comments

Material Comments - Support

- Good accessibility by a choice of transport - addressed in 3.3a)
- Suitability of premises for retail - addressed in 3.3a)
- Increase diversity and attraction of the Seafield Retail Park - addressed in 3.3a)
- Will serve a growing population - addressed in 3.3a)
- New retail development will create jobs - addressed in paragraph Section 3.3b)

Material Comments - Objection

- Premises are not located within an existing centre - addressed in 3.3a)
- Lack of public transport connectivity and overreliance on car - addressed in 3.3a)
- Increase in vehicular traffic on Seafield Road - addressed in 3.3a)
- Over-provision of food retail - addressed in 3.3a)

Conclusion

The proposal will not address a qualitative or quantitative deficiency or meet the needs of an expanding residential or working population within its proposed catchment. The proposal is not located in a town or other commercial centre and it is not, nor likely to be, accessible by a choice of transport modes or reduce the length and overall number of shopping trips made by car.

The removal or amendment of Condition G08 attached to planning permission A/02910/96 would be contrary to Policy Ret 1 and Policy Ret 6 of the Local Development Plan. There are no material considerations which should outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposal is contrary to Local Development Plan Policy Ret 1 in respect of the Town Centres First Policy as it is an out of centre location that is not, nor likely to be, accessible by a choice of transport modes.
2. The proposal is contrary to Local Development Plan Policy Ret 6 in respect of Out-of-Centre Development as it will not address a qualitative or quantitative deficiency or meet the needs of a expanding residential or working population within its proposed catchment and it is not, nor likely to be, accessible by a choice of transport modes and will not reduce the length and overall number of shopping trips made by car.

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

Neighbour notification was carried out on the 20 January 2020. The application appeared on the weekly list of the 20 January 2020. The statutory notification and consultation period expired on the 10 February 2020.

59 timeous comments were received; 54 in support and 5 objecting. A summary of considerations raised is provided in 3.3c).

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 application site is located within the Urban Area as identified by the Edinburgh Local Development Plan.

Date registered

15 January 2020

Drawing numbers/Scheme

01A,

Scheme 1

David R. Leslie

Chief Planning Officer

PLACE

The City of Edinburgh Council

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Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Ret 1 (Town Centres First Policy) sets criteria for retail and other town centre uses following a town centre first sequential approach.

LDP Policy Ret 6 (Out-of-Centre Development) identifies the circumstances in which out-of-centre retail development will be permitted.

Appendix 1

Application for Planning Permission 20/00170/FUL at 64 Seafield Road, Edinburgh, EH6 7LW. Resubmission of application under S42 of the Planning Act to implement use of no. 64 Seafield Road (existing B&M store) without compliance with Condition G08 of planning consent A 02910 96 to permit the sale of food goods from the retail unit to a maximum of 1033 sq m net (sales) floor area for convenience goods.

Consultations

City of Edinburgh Council Environmental Protection Service (2 April 2020) - No Objection

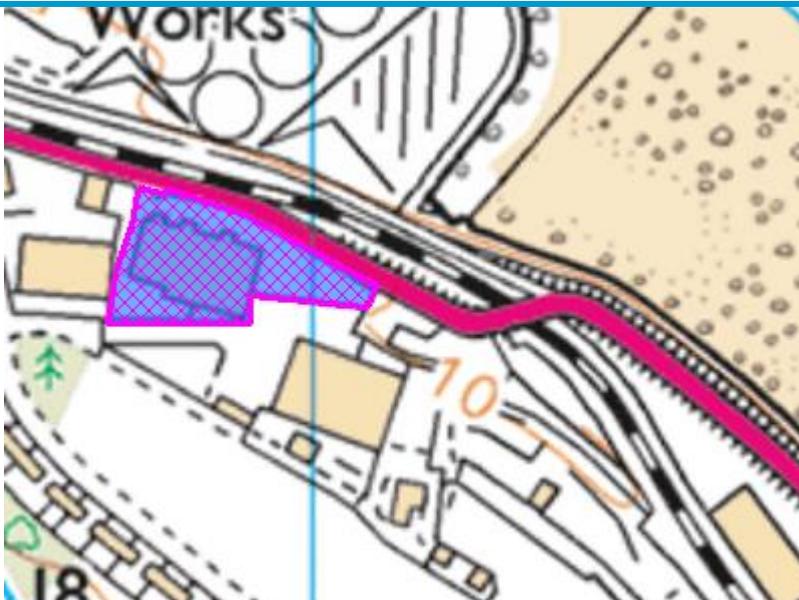
City of Edinburgh Council as Roads Authority (17 April 2020) - No Objection

No objections to the application subject to the following being included as conditions or informatives as appropriate:

- 1. Whilst the proposed development makes no changes to the existing 119 parking spaces, the applicant should consider providing 10 disabled spaces, 20 electric vehicles charging points, 13 cycle parking spaces for employees, 7 cycle parking spaces for customers, 2 motorcycle parking spaces for employees and 4 motorcycle parking spaces for customers;*
- 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: The development proposes to retain the existing 119 parking spaces. Current parking standards would permit up to 164 spaces based on 3,281m² GFA in Zone 3.

Location Plan



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