

Development Management Sub Committee

report returning to Committee - Wednesday 17 March 2021

Application for Planning Permission 18/09995/FUL at 25 Milton Link, Edinburgh, EH15 3QH. Variation of condition (ii) imposed on planning permission TP/5/M/2264/85 to enable the sale of food for up to 743 sq.m.

Item number

Report number

Wards

B17 - Portobello/Craigmillar

Recommendations

It is recommended that this application be Refused and Enforced subject to the details below.

Background information

On the 31 July 2019, the Development Management Sub-Committee granted planning permission subject to the conclusion of a legal agreement.

This legal agreement has not progressed, and therefore the application is being reported back to the Committee to be refused. It is also noted that the unit has started trading convenience goods and therefore enforcement action is required to cease this trading, as it does not have planning permission.

Main report

The unit has a current gross retail floorspace of 6,503 square metres and is subject to a condition restricting it to non-food retail sales only.

The application was made under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary condition (ii) of permission 2264/85.

The application proposed that the condition be changed to:

"The premises shall be used for the sale of non-food goods and for no other purpose save that up to 743 square metres can be used for the sale of food."

The applicant advised that the premises would continue to be occupied by The Range. The application sought a variation in the permitted ranges of goods in respect of allowing a limited amount of the existing retail space to be used for the sale of food. The proposed parameters were that:

- It did not involve the sub-division of the existing unit;
- There would be no separate entrance or exit for customers wishing to buy food items;
- All items would be purchased at the main store entrance/exit and
- The main range of food goods sold would be frozen products with a limited range of chilled and ambient items.

In addition, planning permission already exists for the sale of food retail for up to 292 square metres, as per planning permission 98/3080/FUL. The application proposed to encompass this already-consented 292 square metres into the total permitted floorspace for food sales. Thus, the overall additional food sale floorspace would be 451 square metres.

However, following the decision to grant planning permission by the Development Management Sub-Committee, the legal agreement (to allow for the food sales floorspace) has not been progressed by the applicant, despite many attempts at contact by the Planning Authority. Since October 2020, the following attempts to contact the applicant have been made:

- Chaser email to The Range dated 26 November 2020;
- Response from The Range dated 26 November 2020 confirming the interim invoice had been settled;
- Chaser email to The Range dated 2 December 2020;
- Response from The Range dated 2 December 2020 confirming that their solicitor was attempting to make contact with the new landlord's solicitors;
- Chaser email to The Range dated 5 January 2021 (no response received);
- Chaser email to The Range dated 13 January 2021;
- Response from The Range dated 14 January 2021 stating that their solicitor was having trouble getting response from the landlord;
- Chaser email to The Range dated 22 January 2021;
- Response from The Range dated 22 January 2021 stating it was out of their hands;
- Email to The Range dated 22 January 2021 stating that Council of a view to return the application to Committee to be refused given the lack of progress (no response has been received).

It is also noted that the store is now operating the food sales floorspace without planning permission.

Therefore, it is recommended that planning permission be refused and enforced.

Links

Policies and guidance for this application LDPP, LRET01, LRET06, OTH, NSGD02,

A copy of the original Committee report can be found in the list of documents at

<https://citydev-portal.edinburgh.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=PIJF5AEWJAE00>

Or Council Papers online

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