

Development Management Sub Committee

Wednesday 6 October 2021

**Application for Planning Permission 20/04929/FUL
at 16 Buckstone Terrace, Edinburgh, EH10 6PZ.
Change of use from Class three (Food and Drink) to Mixed
use Class three/hot food take away (sui generis).**

Item number

Report number

Wards

B08 - Colinton/Fairmilehead

Summary

The proposal complies with the relevant policies contained within the Edinburgh Local Development Plan. The principle of the use is acceptable, there is no adverse impact on neighbouring amenity and parking and access standards are met. There are no material planning considerations that outweigh this conclusion.

Links

[Policies and guidance for this application](#)

LDPP, LRET11, LHOU07, NSG, NSBUS,

Report

Application for Planning Permission 20/04929/FUL at 16 Buckstone Terrace, Edinburgh, EH10 6PZ. Change of use from Class three (Food and Drink) to Mixed use Class three/hot food take away (sui generis).

Recommendations

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

Background

2.1 Site description

The application property is a ground floor and basement shop unit located at the southern end of a shopping parade. The rear of the application property has been extended at basement and ground floor level.

The parade includes flatted properties at first floor level. There is also a flatted development to the south of the site and residential units on the opposite side of the road.

Buckstone Terrace forms part of Comiston Road, one of the main routes into the city. A lay-by, which is capable of accommodating approximately six cars, is located in front of the parade of shops.

The site lies within Buckstone Local Shopping Centre.

2.2 Site History

6 July 2009 - Planning permission was refused for a change of use from shop to hot food take away (planning application number 09/01093/FUL).

12 November 2010 - Planning permission was granted for a change of use from Class 1 (shop) to Class 3 (cafe) in retrospect, and as amended to include external ventilation (planning application number 10/00951/FUL).

Main report

3.1 Description of the Proposal

The proposal is for a change of use from Class three (Food and Drink) to Mixed use Class three/hot food take away (sui generis).

The proposed hours of operation are 08:00-23:00 seven days a week.

No physical changes are to be made to the building.

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) the principle of the proposal is acceptable;
- b) there is any loss of residential amenity;
- c) there are any road safety and parking issues and
- d) any comments received have been addressed.

a) Principle of Development

The unit is presently operating as a class three café, with an incidental takeaway function.

Edinburgh Local Development Plan (LDP) Policy Ret 11 (Food and Drink Establishments) seeks to guide proposals for the change of use to a food and drink establishment. It supports restaurants and cafes in principle, provided this will not lead to an unacceptable increase in noise, disturbance, or on-street activities to the detriment of living conditions for nearby residents and provided there is not considered to be an excessive concentration of such uses.

The site lies outwith an area of restriction as defined within the Council's Guidance for Businesses, but within a cluster of existing commercial uses, where there are residential units above the application site.

The Guidance supports cafes and takeaways within such areas, provided it will not lead to an unacceptable increase in disturbance, on-street activity or antisocial behaviour to the detriment of the living conditions of nearby residents.

The proposed use would be an appropriate commercial use, which would complement the character of the local shopping centre and would not be detrimental to its vitality and viability.

The proposed development is acceptable in this location, subject to amenity considerations which are assessed below.

b) Neighbouring Amenity

LDP Policy Hou 7 (Inappropriate Uses in Residential Areas) states that developments, including a change of use, which would have a materially detrimental effect on the living conditions of nearby residents, will not be permitted.

The use of a premises as a Class 3 /hot food unit and the extension of the hours of operation, relative to the current hours of operation, could have the potential to increase external noise levels due to patrons, sometimes in groups, entering and exiting the premises. This could be exacerbated by patrons opening and closing the doors of parked motor vehicles within the adjacent layby or congregating on the pavement outside the premises.

Buckstone Terrace is part of a main thoroughfare into and out of south Edinburgh. The ambient noise level experienced on that road is above that found in a quieter location, due to the presence of significant levels of vehicular traffic. This background noise is relatively constant during the day and would partially mask any increase in noise levels as a result of the proposal. However, background noise levels drop later in the evening and the proposed mixed use, in conjunction with the hours of operation effectively extending to 23.00, could have a detrimental effect on neighbouring residential amenity. Although Environmental Protection has offered no objections to the proposal, it is considered appropriate to restrict the hours of operation to no later than 21:00, seven days a week.

It is not anticipated that the internal noise levels would increase as a result of this development, as the development proposes to utilise the existing ventilation system. Any deficiencies in the system or impact on amenity could be dealt with through Environmental Protection measures.

Subject to a restrictive condition in relation to hours of operation there would be no unreasonable loss to neighbouring amenity.

The proposal complies with LDP Policies Hou 7 and Ret 11.

c) Road Safety and Car Parking

The row of shops on Buckstone Terrace has a layby in front of the terrace, with restricted car parking parallel to the kerb.

The lay-by serving the parade of shops is heavily used and is often at capacity. Transport do not support the proposal as they have concerns that a food takeaway operation here would lead to double parking. However, the mixed use already has an incidental takeaway service, and as the relative increase in the hours of operation would be in the evening, when traffic is quieter and parking less restricted, it is not anticipated that the proposal would be detrimental to road safety.

d) Public comments

Material comments - objection

- contrary to LDP policy Ret 11 - assessed in sections 3.3a and 3.3b
- Increased traffic - assessed in section 3.3c
- Increased noise and disruption - assessed in section 3.3b

Conclusion

The proposal complies with the policies in the Edinburgh Local Development Plan and the relevant non-statutory guidance. The surrounding area and neighbouring amenity would not be adversely affected by the proposal. There are no material considerations that would outweigh this conclusion.

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

3.4 Conditions/reasons/informatives

Conditions :-

1. The hours of operation shall be restricted to 08:00 to 21:00 Monday to Sunday.

Reasons:-

1. 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. This application relates to a flatted building. This planning permission does not affect the legal rights of any other parties with an interest in the building. In that respect, the permission does not confer the right to carry out the works without appropriate authority.

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

The application was advertised on 27th November 2020 and 12 comments were received, all objecting. These included comments from Fairmilehead Community Council and Melford Park Properties Association.

A full assessment of the representations can be found in the main report in the Assessment section.

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 lies within the urban area of the Edinburgh Local Development Plan and is part of Buckstone Local Shopping Centre.

Date registered

11 November 2020

Drawing numbers/Scheme

1,2,

Scheme 1

David Givan

Chief Planning Officer

PLACE

The City of Edinburgh Council

Contact: Jennifer Zochowska, Senior Planning Officer

E-mail: jennifer.zochowska@edinburgh.gov.uk

Links - Policies

Relevant Policies:**Relevant policies of the Local Development Plan.**

LDP Policy Ret 11 (Food and Drink Establishments) sets criteria for assessing the change of use to a food and drink establishment.

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.

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

Application for Planning Permission 20/04929/FUL At 16 Buckstone Terrace, Edinburgh, EH10 6PZ Change of use from Class three (Food and Drink) to Mixed use Class three/hot food take away (sui generis).

Consultations

Environmental Protection

I refer to the above and would advise that Environmental Protection has no objections to the proposed development.

The application proposes the change of use from Class 3 to Class 3 and Sui Generis to allow hot food take-away to be purchased from the premises including extension from 8pm to 11pm operating hours. The application premises sit at the end of a row of commercial premises each of which have a residential property above.

The application premises are situated on Buckstone Terrace which is a main thoroughfare road into and out of south Edinburgh. Therefore, the existing ambient noise environment would be dominated by a certain amount of traffic and footfall noise. Noise from hot food take-away premises can occur as patrons visit and leave the premises after purchasing food. Such external noise normally includes voices and vehicle engines and doors slamming. Internal noisy operations are not expected to change due to this application. However, Environmental Protection would be of the opinion that up to 11pm, the existing noise environment is likely to partially mask much of these noises. In addition, such noise sources would already be commonplace at the adjacent Buckstone Terrace off-road parking area.

Environmental Assessment would also advise that no complaints of noise are on record in relation to the existing Class 3 premises' operations.

Therefore, Environmental Protection would offer no objections to the application proposal.

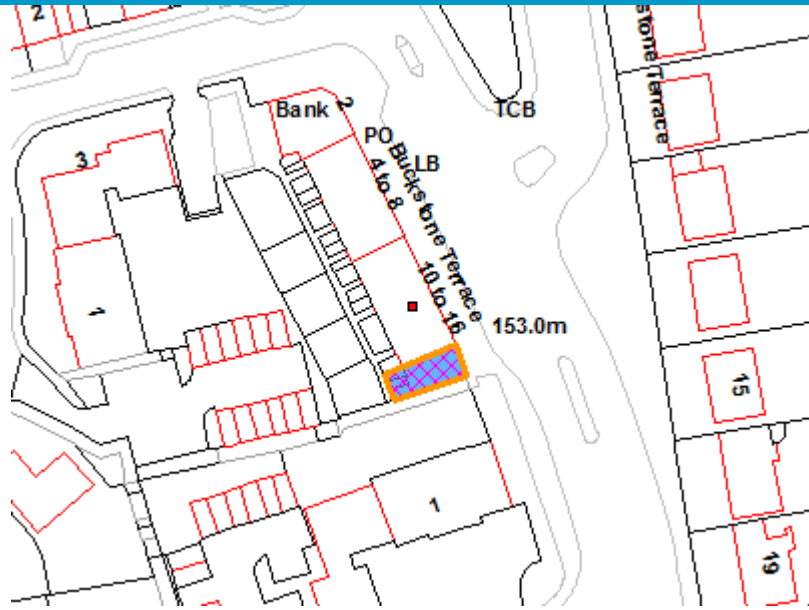
Should you wish to discuss the above please contact me on 0131 469 5802.

Roads Authority

The application should be refused.

The parking layby at the location is frequently fully utilised resulting in instances of double parking. Transport have concerns that a food takeaway operation here would exacerbate this issue, to the detriment of road safety.

Location Plan



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