

# Development Management Sub Committee

**Wednesday 2 March 2022**

**Application for Planning Permission 21/03154/FUL  
at 25 Lasswade Road, Edinburgh, EH16 6JB.  
Alterations and change of use of existing class 1  
convenience store with hot food takeaway counter to form  
class 3 cafe / restaurant.**

**Item number**

**Report number**

**Wards**

B16 - Liberton/Gilmerton

## Summary

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The proposal complies with the Edinburgh Local Development Plan and the Council's non-statutory guidance. The proposal is acceptable in this location. There are no changes to the design of the building and the character and appearance of the area is retained. There is no unacceptable loss of residential amenity. The proposal complies with the relevant SPP - sustainable development principles. There are no other material considerations which outweigh this conclusion.

## Links

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[Policies and guidance for this application](#)

LDPP, LRET10, LRET11, LHOU07, LDES12, NSG, NSBUS,

# Report

## **Application for Planning Permission 21/03154/FUL at 25 Lasswade Road, Edinburgh, EH16 6JB. Alterations and change of use of existing class 1 convenience store with hot food takeaway counter to form class 3 cafe / restaurant.**

### **Recommendations**

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

### **Background**

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#### **2.1 Site description**

The site comprises a ground floor retail unit, located on the eastern side of Lasswade Road, at the junction with Park Crescent. Residential flatted accommodation is situated on the two floors above the unit.

#### **2.2 Site History**

10 April 2012 - A Certificate of Lawfulness was granted for proposed alterations to existing retail shop to form cooked food servery including hot food, ancillary to retail use (application number 12/00421/CLP)

### **Main report**

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#### **3.1 Description of the Proposal**

The proposal is for alterations and change of use of existing class one convenience store with hot food takeaway counter to form a Class three (Food and Drink).

The proposed hours of opening are 17.00 to 00.00

#### Supporting Information

Noise Impact Assessment

#### **3.2 Determining Issues**

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

### **3.3 Assessment**

To address these determining issues, the Committee needs to consider whether:

- (a) the proposal is acceptable in principle;
- (b) the proposed scale, design and materials are acceptable;
- (c) the proposal is detrimental to the amenity of neighbours;
- (d) the proposal affects road safety and
- (e) any other material considerations have been taken into account.

#### **a) Principle of the proposal**

The shop unit has been trading as a retail operation, with an incidental hot food counter.

The site lies outwith a defined shopping centre and Local Development Plan (LDP) Policy Ret 10 (Alternative Use of Shop Units in Other Locations) would apply.

The proposed use would be an appropriate commercial use, which would complement the character of the area. The proposal would still allow the premises to be used by a small business. There is no justification to retain the unit in shop use. The site lies outwith an area of restriction defined within the Council's Guidance for Businesses, but within a cluster of existing commercial uses, where there are residential units above. 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 development is acceptable in this location subject to amenity considerations which are assessed in section 3.3c below. It is in compliance with LDP Policy Ret 10.

#### **b) Scale, Design and Materials**

There are no external alterations proposed and there will be no change to the character of the area.

The proposal complies with LDP Policy Des 12 (Alterations and Extensions).

c) Residential 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.

LDP Policy Ret 11 Food and Drink Establishments 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.

It is proposed to use the current kitchen ventilation system at the rear of the building, with a duct taken up a disused chimney to a terminal at chimney pot level.

Residential properties are situated above and a noise impact assessment (NIA) was provided in support of the application. Noise mitigation measures have been provided within the NIA to ensure that noise does not impact upon the amenity of the residential properties above, which meet the requirements of Environmental Protection. It is recommended that a condition is attached requiring these noise attenuation measures to be in place before the development commences operation.

The use of a premises as a Class three cafe /restaurant could have the potential to increase external noise levels due to patrons, sometimes in groups, entering and exiting the premises. Being located in close proximity to residential properties, the background ambient noise levels drop later in the evening and the proposed use, in conjunction with the proposed hours of operation extending to midnight, could have a detrimental effect on neighbouring residential amenity. Although Environmental Protection has offered no objections to the proposal, having regard to the above it is appropriate to restrict the hours of operation to no later than 22:00, seven days a week.

The proposal, subject to a restrictive condition, complies with LDP Policies Hou 7 and Ret 11.

d) Road Safety and Parking Issues

LDP Policies Tra 2- Tra 4 set out the requirement for private car and cycle parking.

There is restricted on-street parking on this part of Lasswade Road. The street is served by public transport and on street parking is available in the neighbouring streets. There are no concerns in relation to road safety.

The proposal complies with LDP Tra 2-Tra 4.

e) Other material considerations

*Scottish Planning Policies (SPP) - Sustainable Development*

Scottish Planning Policy (SPP) presumption in favour of sustainable development is a significant material consideration due to the development plan being over 5 years old.

The proposed development will re-use an existing building and provide an appropriate use that would complement the surrounding area. The proposal would create a localised sense of place and a facility that would have the potential to benefit the local community. A bus service, providing access to the wider city and other facilities, is located on the same street. Zero parking will be provided, although on street parking is available in the surrounding streets. The proposal is a sustainable land use and will contribute to a sense of place.

The proposed development therefore complies with the 13 SPP principles.

#### *Emerging Policy Context*

NPF 4 - Draft National Planning Framework 4 is being consulted on at present. As such, it has not yet been adopted. Therefore, little weight can be attached to it as a material consideration in the determination of this application.

City Plan 2030 - While the proposed City Plan is the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

#### *Equalities and Human Rights*

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

#### *Public Comments*

##### **Material comments - objection**

- no need for café in the area so proposal would be contrary to LDP policy Ret 11 assessed in section 3.3a
- Increased traffic and parking issues - assessed in section 3.3d
- Increased noise and disruption - assessed in section 3.3c
- loss of amenity for upper flats ' assessed in section 3.3c

##### **Material considerations - support**

- supporting the hot food shops in the area - assessed in section 3.3a

##### **Non-material considerations**

- disposal of waste food - not part of the planning process
- behaviour and actions of applicant - not part of the planning process
- condition and cleanliness of shop - not part of the planning process
- title deeds restrict unit to shop only -not part of the planning process
- flue may block view from window - not part of the application

## Conclusion

The proposal complies with the Edinburgh Local Development Plan and the Council's non-statutory guidance. The proposal is acceptable in this location. There are no changes to the design of the building and the character and appearance of the area is retained. There is no unacceptable loss of residential amenity. The proposal complies with the relevant SPP - sustainable development principles. There are no other material considerations which outweigh this conclusion.

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

### **3.4 Conditions/reasons/informatives**

#### **Conditions :-**

1. Prior to the use hereby approved being taken up, the proposed alterations to the ceiling construction shall be undertaken as detailed by the Noise Assessments Limited (Project No. NALPRO180221.02) document entitled " Noise Impact Assessment Change of Use to Class 3 Restaurant".
2. The hours of operation shall be restricted to 09.00 to 22.00 seven days a week.

#### **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.

4. 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**

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### **4.1 The financial impact has been assessed as follows:**

There are no financial implications to the Council.

## **Risk, Policy, compliance and governance impact**

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5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

## **Equalities impact**

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### **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**

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### **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**

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### **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 25th June 2021 and 13 comments were received, 12 objecting, 1 supporting. These included comments from Liberton and District Community Council.

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

## **Background reading/external references**

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- 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, as defined within the Edinburgh Local Development Plan.

**Date registered**

17 June 2021

**Drawing numbers/Scheme**

1,

Scheme 1

**David Givan**

Chief Planning Officer

PLACE

The City of Edinburgh Council

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**Links - Policies**

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**Relevant Policies:**

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

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 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.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

**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 21/03154/FUL at 25 Lasswade Road, Edinburgh, EH16 6JB Alterations and change of use of existing class 1 convenience store with hot food takeaway counter to form class 3 cafe / restaurant.**

### **Consultations**

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#### **Environmental Protection**

*Environmental Protection has no objections to this proposed development subject to the following condition:*

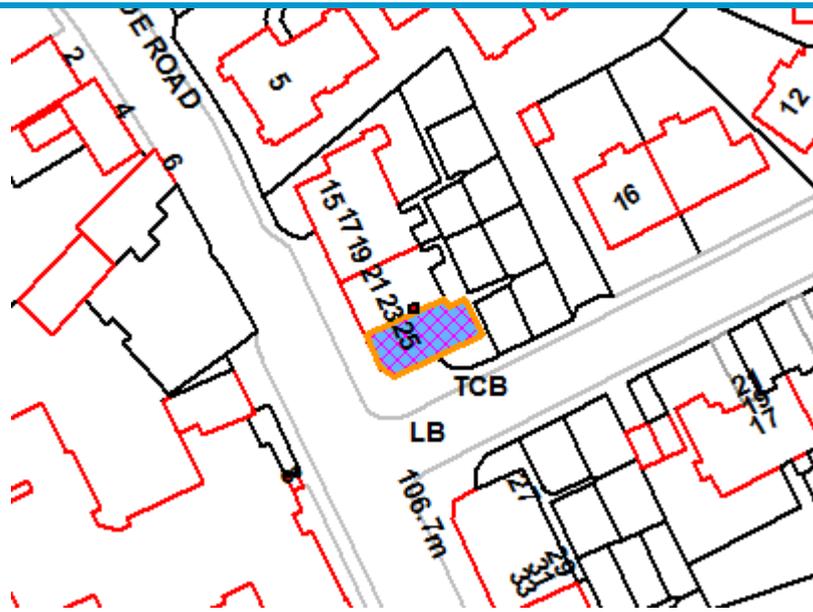
- 1. The ceiling construction will consist of the following acoustic material:*
  - 22mm T &G floorcovering*
  - 22 mm softwood timber floorboards*
  - Timber joists (circa 150mm deep)*
  - Ash deafening*
  - Ash deafening boards*
  - A minimum cavity depth of 200 mm*
  - Suspended ceiling*

*The application premises has residential parties directly above as it is situated on the ground floor of a tenemental building.*

*Environmental Protection had concerns regarding noise from this proposal affecting nearby sensitive receptors, However, a Noise Impact Assessment by Noise Assessments Limited (Project No. NALPRO180221.02) has been submitted which indicates that our expected standards in relation to noise would be met in the nearby residential properties if attenuation measures are implemented. These are referenced in the condition above.*

## Location Plan

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