

Development Management Sub-Committee Report

Wednesday 30 March 2022

**Application for Planning Permission
134C Portobello High Street, Edinburgh, EH15 1AJ.**

Proposal: Alterations to former bank premises including alterations to shopfront with change of use to Restaurant (Class 3) with ancillary hot food take away (SUI Generis). (As Amended)

**Item – Committee Decision
Application Number – 21/04343/FUL
Ward – B17 - Portobello/Craigmillar**

Reasons for Referral to Committee

This application has been referred to the Development Management Sub Committee as the application has received more than 6 material objection comments.

Recommendation

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

Summary

The application for development is in accordance with Section 64 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, the relevant Edinburgh Local Development Plan policies and the relevant Non-Statutory Guidance. It is compatible with the existing building, preserves the character and appearance of the conservation area and has no adverse impact on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site occupies a ground floor commercial unit within a four-storey traditional tenemental property located on the north side of Portobello High Street. The area is typified by commercial units located along the ground floor with residential units above. The premises are currently vacant and have previously operated as a bank. The site is located within the Portobello Town Centre and the Portobello Conservation Area.

Description of the Proposal

The application is for the change of use from a bank (Class 2) to a restaurant (Class 3) with an ancillary Hot Food Takeaway (Sui Generis). The proposal calls for internal and external alterations including the addition of a new aluminium shopfront.

Amendments:

- Noise Impact Assessment
- Noise mitigation and ventilation specific information added to drawings

Relevant Site History

15/02455/FUL

134C Portobello High Street

Edinburgh

EH15 1AJ

Access improvement works which involve removing the existing step up into the building and providing an new external step and ramp.

Refused

24 July 2015

Other Relevant Site History

No other relevant site history

Pre-Application process

There is no pre-application process history.

Consultation Engagement

Environmental Protection

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 25 August 2021

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 3 September 2021;

Site Notices Date(s): 26 August 2021;

Number of Contributors: 13

Section B - Assessment

Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then 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.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals harm the character or appearance of the conservation area.

The Portobello Conservation Area Character Appraisal emphasises the village/small town character of the area, the importance of the long sea-front promenade, the high-quality architecture, and the predominant use of traditional building materials.

The High Street is an identified shopping centre that provides a diverse mix of commercial activities and in which retail frontages are protected. Key objectives involve encouraging regeneration to attract investors and generate new employment opportunities, promoting good quality design and enhancing existing quality.

The proposals for the reduced stallriser and the installation of a new aluminium shopfront to the front elevation would retain the architectural features of the shopfront and provide a modern addition that would not adversely impact on the special interest of the area. The internal and external alterations are of an acceptable modern design and will not have a detrimental impact on the character of the conservation area.

Conclusion in relation to the conservation area

The proposals comply with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the development plan?

The development plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Environment policy Env 6
- LDP Design policies Des 5 and Des 12
- LDP Retail policy Ret 11
- LDP Housing policy Hou 7

The non-statutory Listed Building and Conservation Area Guidance and the non-statutory Guidance for Businesses are material considerations that are relevant when considering LDP policy.

Scale, Form and Design and Impact on the Conservation Area

The existing shopfront is simply detailed and does not strongly contribute to the character of the conservation area, which comprises a wide and interesting mix of architectural styles. The proposed alterations to the shopfront would be designed to match the existing shopfront and would not detract from the character of the immediate area and is of an acceptable scale and design. The materials will match the existing building and provide visual continuity.

The proposal will not have an adverse impact on the character and appearance of the conservation area and complies with LDP Policies Env 6 and Des 12.

Principle

The site lies within the Portobello Town Centre where the Supplementary Guidance for Portobello Town Centre defines the application site as a primary retail frontage. However, the existing unit is no longer in operation as a class 1 shop use, and currently operates as a class 2 Financial, Professional and other services use. The proposed change of use to a class 3 restaurant with ancillary hot food takeaway is therefore acceptable subject to compliance with LDP Policy Ret 11 Food and Drink Establishments.

The application site is located within an area which has an established mixed residential/commercial character encompassing a suitable balance of existing uses, which includes restaurants, public houses, retail units, offices and financial and professional services.

The proposed use of the site as a restaurant, with ancillary hot food takeaway, will not disrupt the existing balance of commercial uses within the surrounding area or lead to an excessive concentration of such uses to the detriment of living conditions for nearby residents. The proposal would not undermine the retailing function of the centre.

The proposal is acceptable in principle and complies with policy Ret 11 of the adopted Edinburgh Local Development Plan (LDP) and the Edinburgh Guidance for Businesses, which also supports the principle of class 3 uses, such as restaurants, in designated shopping centres.

Amenity

Environmental Protection has confirmed that the details provided show that the kitchen extracts will be capable of reaching chimney head level and achieve 30 air changes per hour in the kitchen.

A condition has been applied to ensure that the flues and ventilation system shall be installed prior to the use of the site being taken up. The use will not have a material impact upon the amenity of neighbouring residents in terms of noise and will ensure that the proposal will cause no issues in terms of odours.

A Noise Impact Assessment was submitted by the applicant detailing the proposed acoustic measures which will be installed to safeguard the amenity of neighbouring residents above. A suspensive condition, requiring the installation of acoustic mitigation measures prior to the commencement of the use, has been attached to ensure residential amenity will not be adversely affected.

The site has an established access to the rear garden. The proposed use of a small section of the rear for the storage of waste before waste collection is acceptable.

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

Conclusion in relation to the Development Plan

The proposal is acceptable in principle and complies with policies Env 6, Des 12, Hou 7 and Ret 11 of the adopted Edinburgh Local Development Plan (LDP).

c) There are any other material considerations which must be addressed.

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal complies with Paragraph 29 of SPP.

Emerging policy context

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

While City Plan 2030 represents 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 representations

The application received 13 letters of representation. 12 of those letters were in objection to the scheme. One letter was neither in support nor objection to the scheme. The points raised are summarised below and addressed in the text of the report.

Material Comments - Objections

- Impact upon conservation area - this is addressed in section (a);
- overprovision of similar establishments in vicinity - this is addressed in section (b);
- Impact on amenity - this is addressed in section (b);
- Inappropriate storage of waste material - this is addressed in section (b);
- Proposal will result in anti-social behaviour - this is addressed in section (b);

Material Comments - Support

- Appropriate use of site as a Hot Food Takeaway - this is addressed in section (b);

Non-material Objections

- Proposal will result in rubbish and littering - this is not a material planning consideration;
- Proposal would have negative impact on nearby house prices - this is not a material planning consideration.

Conclusion in relation to identified material considerations

The proposals do not raise any issues in relation to other material considerations identified.

Overall conclusion

The application for development is in accordance with Section 64 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, the Edinburgh Local Development Plan policies Env 6, Des 12, Hou 7, Ret 11 and the relevant Non-Statutory Guidance. It is compatible with the existing building, preserves the special character and appearance of the conservation area and has no adverse impact on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions :-

1. The ventilation details and noise mitigation measures as shown on application drawing No.4 Revision B (job number 2122 and dated 25/11/21) shall be installed and operational prior to the initiation of the use hereby approved.

Reasons:-

1. In order to safeguard the amenity of neighbouring residents and other occupiers.

Informatives

It should be noted that:

1. The works 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 consent is for planning permission only. Work must not begin until other necessary consents, eg listed building consent, have been obtained.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 16 August 2021

Drawing Numbers/Scheme

01-02,-3a-04a

Scheme 2

**David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council**

Contact: Adam Gloser, Planning Officer
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Appendix 1

Summary of Consultation Responses

NAME: Environmental Protection

COMMENT: Environmental Protection offers no objections to the application subject to the following condition:

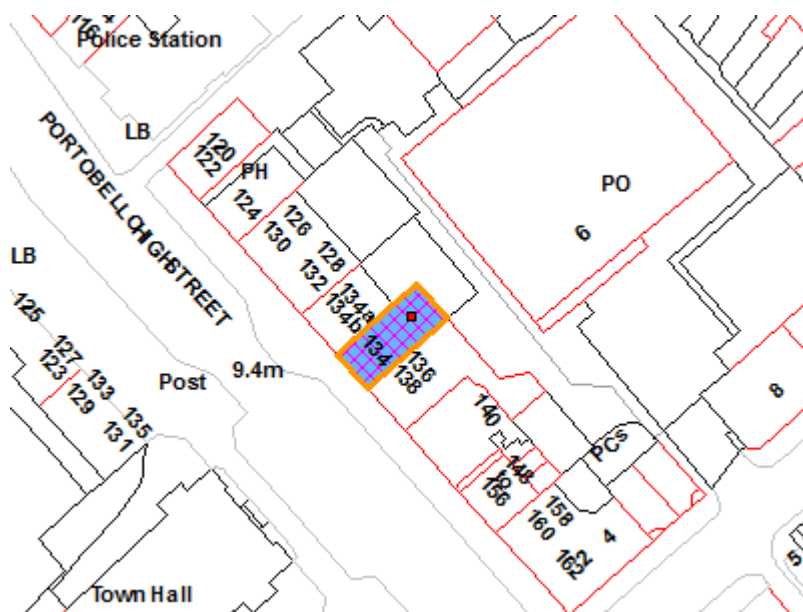
Conditions

1. The ventilation details and noise mitigation measures as shown on application drawing No.4 Revision B (job number 2122 and dated 25/11/21) should be installed and operational prior to start of operations on site.

DATE: 18 January 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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