

Arctec Build Ltd.
Fao. Andrew Dodds
4 The Maltings
Haddington
EH41 4EF

Krem Karamel.
68 Inverleith Row
Edinburgh
EH3 5LT

Decision date: 28 October 2022

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013

Retrospective consent sought for change of use from retail shop unit (Class 1) to coffee shop /cafe, (Class 3 restricted use), including outdoor seating areas. Ancillary Class 1 retail use to be retained as a bookshop.
At 68 Inverleith Row Edinburgh EH3 5LT

Application No: 22/03124/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 15 June 2022, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Ret 11 in respect of Food and Drink Establishments, as it could have an unacceptable impact on residential amenity. ****
2. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as it would impact on residential amenity. ****

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-02, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal does not comply with the relevant policies within the Edinburgh Local Development Plan and the relevant Guidance in that it would have an unacceptable impact on amenity. No material considerations would outweigh this decision.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Adam Gloser directly at adam.gloser@edinburgh.gov.uk.



Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission
68 Inverleith Row, Edinburgh, EH3 5LT**

Proposal: Retrospective consent sought for change of use from retail shop unit (Class 1) to coffee shop /cafe, (Class 3 restricted use), including outdoor seating areas. Ancillary Class 1 retail use to be retained as a bookshop.

**Item – Local Delegated Decision
Application Number – 22/03124/FUL
Ward – B05 - Inverleith**

Recommendation

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

Summary

The proposal does not comply with the relevant policies within the Edinburgh Local Development Plan and the relevant Guidance in that it would have an unacceptable impact on amenity. No material considerations would outweigh this decision.

SECTION A – Application Background

Site Description

The application site relates to a ground-floor commercial premises on the East side of Inverleith Row at its junction with Eildon Street. The property does not form part of a listed building but is within the Inverleith Conservation Area.

Description Of The Proposal

Retrospective planning permission is sought for the change of use from a retail shop unit (Class 1) to a coffee shop /cafe, (Class 3 restricted use), including outdoor seating areas. Ancillary Class 1 retail use to be retained as a bookshop.

Supporting Information

Noise Impact Assessment

Relevant Site History

No relevant site history.
Other Relevant Site History

Consultation Engagement

Publicity and Public Engagement

Date of Neighbour Notification: 28 October 2022

Date of Advertisement: 1 July 2022

Date of Site Notice: 1 July 2022

Number of Contributors: 1

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 impact on the character or appearance of the conservation area?

The Inverleith Conservation Area Character Appraisal emphasises the predominance of Georgian, Victorian and Edwardian villas and terraces which form boundaries to extensive blocks of public and private open space. The villa streets are complemented by a profusion of mature trees, extensive garden settings, stone boundary walls and spacious roads. The villas are in a considerable variety of architectural styles, unified by the use of local building materials.

No external alterations are proposed. The works would not have a detrimental impact on the character and appearance of the conservation area.

Conclusion in relation to the conservation area

The proposal is acceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in that it would preserve the character and appearance of the conservation area.

b) The proposals comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant policies to be considered are:

- LDP Design policies Des 1 and Des 12.
- LDP Retail policy Ret 10 & Ret 11.
- LDP Housing policy Hou 7

The non-statutory Guidance for Businesses is a material consideration that is relevant when considering policies.

Principle

The proposed use would represent a suitable introduction to this area in that it would not represent an over-intensification of that use, would add vitality to the area and it would not be detrimental to the character and appearance of the application site or surrounding area.

However, the proposal would be unacceptable in terms of amenity (see the amenity section for further assessment).

Taking this into consideration, this would be contrary to Ret 11 and Hou 7 in terms of amenity.

Scale, Form and Design

The proposed internal works would represent suitable additions that would be acceptable in this location. The proposed materials are also acceptable in that they would be congruous to the application site and the surrounding area. No external works are proposed.

This would comply with Env 6, Des 1 and Des 12 in terms of design.

Amenity

The proposal was assessed in terms of amenity and Environmental Protection was consulted in relation to this. Although information on noise impact was received, the applicant seeks to utilise appliances that would not be considered acceptable under the restricted nature of the Class 3 use. Environmental Protection have stated that the use of a hob and oven can be used in ways that cause cooking odours and a ventilation strategy would be required to negate any negative impacts on neighbouring amenity. No such ventilation strategy is proposed as part of this scheme. By virtue of this, the Council has been unable to make a thorough conclusion on the proposals potential impact on amenity.

Taking this into consideration, the proposal would not be acceptable in terms of amenity by virtue of its potential adverse impact on residential amenity.

This is contrary to Hou 7 in terms of amenity.

Transport

The proposal does not contain any elements relating to transport.

Conclusion in relation to the Development Plan

The proposal does not comply with the relevant policies within the Edinburgh Local Development Plan and the relevant Guidance.

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 is contrary to Paragraph 29 of SPP, specifically Principle 13.

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

One comment has been received in support.

A summary of the representations is provided below:

material considerations

Principle; this is addressed in section b).

Community benefit; this is addressed in section b).

Conclusion in relation to identified material considerations

These have been addressed above.

d) Overall conclusion

The application is acceptable with regard to Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal does not comply with the relevant policies within the Edinburgh Local Development Plan and the relevant Guidance in that it would have an unacceptable impact on amenity. No material considerations would outweigh this decision.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reasons

1. The proposal is contrary to the Local Development Plan Policy Ret 11 in respect of Food and Drink Establishments, as it could have an unacceptable impact on residential amenity.****

2. The proposal is contrary to the Local Development Plan Policy Hou 7 in respect of Inappropriate Uses in Residential Areas, as it would impact on residential amenity.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 15 June 2022

Drawing Numbers/Scheme

01-02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Adam Gloser, Planning Officer
E-mail: adam.gloser@edinburgh.gov.uk

Appendix 1

Consultations

The full consultation response can be viewed on the Planning & Building Standards Portal.

Comments for Planning Application 22/03124/FUL

Application Summary

Application Number: 22/03124/FUL

Address: 68 Inverleith Row Edinburgh EH3 5LT

Proposal: Retrospective consent sought for change of use from retail shop unit (Class 1) to coffee shop /cafe, (Class 3 restricted use), including outdoor seating areas. Ancillary Class 1 retail use to be retained as a bookshop.

Case Officer: Local1 Team

Customer Details

Name: Mr John Fuller

Address: 14B Inverleith Row Edinburgh

Comment Details

Commenter Type: Neighbour-Residential

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:As a near neighbour of the cafe/bookshop Krem Karamel, I have been favourably impressed by the way in which its operation has brought life and vitality to the area. It is well patronised, so is clearly serving a useful function for a lot of people. I have observed no problems when I pass by almost every day. The owners are scrupulous about keeping the area clean and tidy, and they only open during the working day, so there is no noise nuisance (and certainly much less noise than already exists from the busy road). Overall the cafe is an asset to the area. I have also been informed by some of the older residents that historically there was a cafe on the site before it became a sports shop, so Krem Karamel seems to be a return to original use rather than something entirely new