

# Development Management Sub-Committee Report

**Wednesday 15 March 2023**

**Application for Planning Permission  
36 - 38 Yeaman Place, Edinburgh, EH11 1BT**

**Proposal: Change of Use from class 1 (shop) to restricted class 3 (food and drink), alterations and refurbishment. (As amended)**

**Item – Committee Decision  
Application Number – 22/04369/FUL  
Ward – B09 - Fountainbridge/Craiglockhart**

## **Reasons for Referral to Committee**

In accordance with the statutory scheme of delegation, the application has been referred for determination by the Development Management Sub-Committee as it has received more than six material representations in objection and the recommendation is to grant planning permission.

### **Recommendation**

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

### **Summary**

The proposal, as amended, would form an appropriate development that would have no adverse effect on neighbouring residential amenity, subject to the application of conditions in relation to noise, cooking equipment and hours of operation.

## **SECTION A – Application Background**

### **Site Description**

The application site is a single storey, commercial unit with a basement level. It is located on the north side of the Union Canal and its south elevation is adjacent to the canal towpath. There are tenements to the north of the building on Yeaman Place and Watson Crescent. The west elevation of the building abuts the rear gardens of the tenements. A scrap merchant's yard is located on the opposite side of Yeaman Place.

### **Description of the Proposal**

Change of Use from class 1 (shop) to restricted class 3 (food and drink) (Cooking would be restricted to a microwave, panini press/toaster and soup urn), alterations and refurbishment. The works would include the formation of a serving window onto the canal towpath, which is adjacent to the south elevation of the building.

The scheme has been amended to re-position windows on the west elevation and delete a serving hatch from the front elevation.

### **Supporting Information**

The application was submitted with a supporting statement.

### **Relevant Site History**

22/02166/FUL

36 - 38 Yeaman Place

Edinburgh

EH11 1BT

Internal and external alterations and change of use from Class 1 (shop) to Class 3 (food and drink) establishment.

withdrawn

13 July 2022

21/06791/FUL

36 - 38 Yeaman Place

Edinburgh

EH11 1BT

Change of use from Class 1 (retail) to Class 3 (food and drink) with associated alterations.

withdrawn

7 March 2022

### **Other Relevant Site History**

No other relevant planning site history.

### **Pre-Application process**

Pre-application discussions took place on this application.

### **Consultation Engagement**

Environmental Protection

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

### **Publicity and Public Engagement**

**Date of Neighbour Notification:** 16 September 2022

**Date of Renotification of Neighbour Notification:** Not Applicable

**Press Publication Date(s):** 23 September 2022

**Site Notices Date(s):** Not Applicable

**Number of Contributors:** 19

## Section B - Assessment

### Determining Issues

This report will consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

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:

- 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 comply with the development plan.**

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4.

The relevant NPF4 and LDP policies to be considered are:

- NPF 4 Climate and Nature Crises Policy 1
- NPF 4 Liveable Places Policy 14
- NPF 4 Liveable Places Policy 15
- NPF 4 Productive Places Policy 27
- LDP Design Policy Des 1
- LDP Retail Policy Ret 10
- LDP Retail Policy Ret 11
- LDP Housing Policy Hou 7

The non-statutory Guidance for Business is a material consideration that is relevant when considering LDP Policies Hou 7, Ret 10 and Ret 11 and NPF 4 Policies 15 and 27.

### Principle

The property is effectively a standalone unit and has been vacant for over two years. There are a number of shops on Dundee Street and Polwarth Terrace, located at either end of Yeaman Place, which serve the local community. The loss of the shop use would have no adverse effect on the vitality of the area's retail function. The provision of a cafe would increase the vibrancy of the area and ensure the re-use of a vacant building. Its capability of serving users of the canal towpath would improve the experience for members of the public using that facility and would mirror a similar provision that exists near the canal basin. The development would comply with LDP Policy Ret 10 and NPF 4 Policies 1, 15 and 27.

### Amenity

The street is a thoroughfare and has two public houses that have the potential to create noise and disturbance within the immediate area. The proposed hours of operation for the unit would be 08:00-18:00, thereby preventing the possibility of the use generating late night noise. The scheme has been amended to remove the serving hatch onto Yeaman Place, which would have had the potential to create localised noise on the street, having particular regard to the adjacent ground floor flat. In addition, the windows that would be formed on the lower ground floor have been amended to create high level fenestration to prevent conflict and overlooking into the nearby tenement gardens. Environmental Protection has no objections, subject to the imposition of conditions relating to noise and restrictions on methods of cooking.

The scheme, as amended, would have no adverse effect on neighbouring residential amenity. It complies with LDP Policies Hou 7 and Ret 11.

### Design

The design principally relates to increased and new areas of glazing to the south and west elevations of the building. The creation of large windows on the south elevation would create an interesting and active frontage onto the canal. The alterations would sit comfortably within the architecture composition of the building and would create a greater degree of visual interest than presently exists.

The development would be a compatible addition to the building and to the surrounding streetscape and would comply with LDP Policy Des 1 and NPF 4 Policy 27.

### Transport

The amended scheme, which removed the serving hatch from the front elevation, would remove the potential for obstruction of the pavement

A previous scheme raised concerns due to the proposal occupying part of the towpath. This application addresses these concerns by deleting that projection. The window is adjacent to a section of the path where it curves away from the building due to the position of the Walker Bridge pier.

Therefore, the potential for obstruction between customers using the serving window and other users of the canal towpath would be greatly reduced due to the form of the serving window and its location, relative to the bridge pier. The provision of the serving window would introduce an active frontage onto this section of the canal. It would encourage greater use of that facility and provide a degree of surveillance to that section of the canal.

The re-use of the building as a cafe, rather than a shop, would not necessarily introduce a greater level of vehicular traffic and has the potential to attract customers from the surrounding area.

The proposal would have no adverse effect on road safety. It would be in compliance with NPF 4 Policies 14 and 15.

### **Conclusion in relation to the Development Plan**

The proposal would form a compatible addition to the area, and with the appropriate conditions attached, would have no adverse effect on amenity. The changes to the building would be modest and acceptable.

#### **b) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

##### Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time 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

A summary of the representations is provided below:

##### *material considerations*

Noise: this is assessed in section (b)

Congestion: this is addressed in section (b)

Cooking odours: this is assessed in section (b)

*non-material considerations*

Competition

Litter

Internal waste management

Use as a takeaway

### **Conclusion in relation to identified material considerations**

These have been addressed above. It has been demonstrated that the proposal would not have an unacceptable effect on residential amenity or on road safety and would be an acceptable development within the area.

### **Overall conclusion**

The proposal would not adversely affect the retail vitality of the area. The changes to the building would be modest and would form a compatible addition to the vicinity. With the appropriate conditions attached, it would have no adverse effect on residential amenity.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following.

### **Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. The design specifications for the party wall, glazing and ventilation plan shall be as specified within sections 4.5, 4.8 and 4.16 respectively of Technical Report No. R-9501-LH-RGM by RMP, dated 24th October 2022.
3. Cooking operations on the premises shall be restricted to reheating involving the use of a microwave, panini press/toaster and soup urn; no other forms of cooking shall take place without the prior written approval of the planning authority.
4. The hours of operation shall be restricted to between 08:00-18:00.

## **Reasons**

1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to safeguard the amenity of neighbouring residents and other occupiers.
3. In order to safeguard the amenity of neighbouring residents and other occupiers.
4. In order to safeguard the amenity of neighbouring residents and other occupiers.

## **Background Reading/External References**

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

**Further Information - Local Development Plan**

**Date Registered: 14 September 2022**

## **Drawing Numbers/Scheme**

01-02, 03B, 4A

Scheme 2

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

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## Appendix 1

### Summary of Consultation Responses

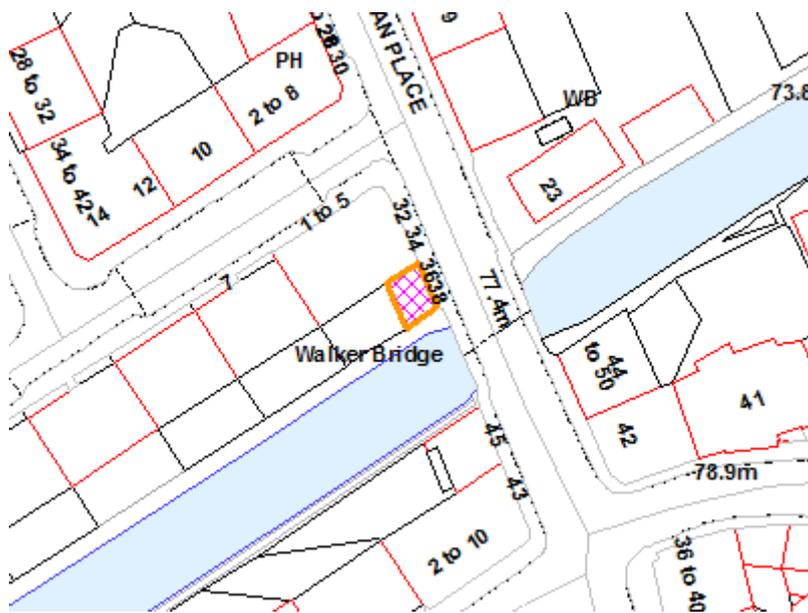
NAME: Environmental Protection

COMMENT: No objections, subject to conditions

DATE:

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

### Location Plan



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