

TmC Planning And Property Development Ltd.
Thomas Cochrane
Suite 1:12 Stadium House
Alderstone Road
Livingston
EH54 5DT

Cornucopia EH11 Ltd.
Mr Graham Ludar-Smith.
30 King Street
Inverkeithing
KY11 1NB

Decision date: 25 January 2023

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

Change of Use from administration office (Class 4) to private adult club (Sui Generis)
At Unit 4 27 Bankhead Terrace Edinburgh EH11 4DY

Application No: 22/04345/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 4 October 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;

Reason for Refusal:-

1. The proposal is contrary to NPF 4 Policy 26, as it would fail to encourage, promote and facilitate business and industry uses.
2. The proposal would be unacceptable by virtue of its impact on public safety.
3. The proposal is contrary to the Local Development Plan Policy Emp 8 in respect of Business and Industry Areas, as it would result in an unacceptable loss of a business and/or industrial floor space.

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 application for development is unacceptable in terms of the relevant policy within the Edinburgh Local Development Plan and also its impact on Public Safety. As considered within the Development Plan assessment of the application it is concluded that the proposals will have an unacceptable impact and the approval of the proposals would be in conflict with the provisions set out within NPF 4, specifically Policy 26. The proposal would have no adverse impact on neighbouring residential amenity. There are no material considerations which outweigh this conclusion.

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 Conor MacGreevy directly at conor.macgreevy@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 Unit 4, 27 Bankhead Terrace, Edinburgh

Proposal: Change of Use from administration office (Class 4) to private adult club (Sui Generis)

**Item – Local Delegated Decision
Application Number – 22/04345/FUL
Ward – B07 - Sighthill/Gorgie**

Recommendation

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

Summary

The application for development is unacceptable in terms of the relevant policy within the Edinburgh Local Development Plan and also its impact on Public Safety. As considered within the Development Plan assessment of the application it is concluded that the proposals will have an unacceptable impact and the approval of the proposals would be in conflict with the provisions set out within NPF 4, specifically Policy 26. The proposal would have 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 is a commercial unit situated within a large 'U-shaped' warehouse that is situated within a Business and Industry area of the city. The surrounding area is characterised by large business and industry commercial units with associated car parking.

Description Of The Proposal

The proposal is for a change of use from a Class 4 (administration office) to Sui Generis (private adult club).

Relevant Site History

No relevant site history.

Other Relevant Site History

No other relevant planning history.

Consultation Engagement

Environmental Protection

Roads Authority

Publicity and Public Engagement

Date of Neighbour Notification: 25 January 2023

Date of Advertisement: 14 October 2022

Date of Site Notice: Not Applicable

Number of Contributors: 3

Section B - Assessment

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.

Assessment

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

a) 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 Design policies Des 1, Des 5 and Des 12.
- LDP Employment policy Emp 8.

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

Principle

The surrounding area is characterised by large commercial units with associated car parking. These units primarily operate within business or industrial uses, which is reflected in the development plan zoning for the area. The proposed change of use would result in the loss of business and industry floorspace (582 sqm approximately). The loss of a business and industry unit would be contrary to LDP Policy Emp 8 and would adversely affect the provision of this type of use within the city. Small scale proposals for ancillary uses which support local businesses may be supported as an exception to this policy. However, the aforementioned floorspace is considerable in size and the proposed use would not be seen as supportive of the surrounding uses.

The proposal would be unacceptable as it is contrary to LDP policy Emp 8.

Scale, Form and Design

The application does not propose any external alterations to the host property.

This complies with LDP Policies Des 1 and Des 12.

Amenity

The proposal was assessed in terms of amenity against the relevant Guidance. The proposal would not have a detrimental impact in relation to amenity.

Environmental Protection was also consulted in relation to the proposal and no concerns were raised.

This complies with LDP Policy Des 05 and Des 12.

Conclusion in relation to the Development Plan

The proposal is contrary to LDP Policy Emp 8.

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

Concerns regarding anti-social behaviour and public safety were raised during the public representation process. The extent to which these matters are material planning considerations depends on the specific development proposals, including the size and scale of the application, the proposed use and the location context. Regard has been given to these considerations based on the severity of the matters raised. Having attached [significant] weight to these concerns, the proposal would be unacceptable.

The following material planning considerations have been identified:

Emerging policy context

The Revised Draft National Planning Framework 4 was approved by the Scottish Parliament on 11 January 2023 to proceed to adoption. On adoption the Revised Draft NPF 4 (2022) will form part of the Council's Development Plan, but at present it remains a material consideration. As adoption of the Revised Draft NPF 4 (2022) is understood to be imminent, and it is now the settled position of Scottish Ministers and the Scottish Parliament, it requires to be given significant weight. Revised Draft NPF 4 (2022) lists various policy provisions under the themes of Sustainable Places, Liveable Places and Productive Places.

Policy 1 of the Draft NPF 4 gives significant weight to the global climate and nature crisis to ensure that it is recognised as a priority in all plans and decisions. The application addresses this through:

- o (the proposal would have a neutral impact in terms of NPF 4 Policy 1)

Policy 26 of the Draft NPF is set out to encourage, promote and facilitate business and industry uses and to enable alternative ways of working such as home working, livework units and micro-businesses. This application is contrary to this by virtue of it eroding a substantial unit within a Business and Industry area.

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

Three comments were received (Objections).

material considerations

Anti-social behaviour and public safety; this is addressed within section b).

Conclusion in relation to identified material considerations

These have been addressed above.

Overall conclusion

As considered within the Development Plan assessment of the application it is concluded that the proposals will have an unacceptable impact and the approval of the proposals would be in conflict with the provisions set out within NPF 4. The application for development is unacceptable in terms of the relevant policy within the Edinburgh Local Development Plan and also its impact on Public Safety. The proposal would have

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

Reasons

Reason for Refusal

1. The proposal is contrary to NPF 4 Policy 26, as it would fail to encourage, promote and facilitate business and industry uses.
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Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 4 October 2022

Drawing Numbers/Scheme

01-02

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Conor MacGreevy, Planning Officer
E-mail: conor.macgreevy@edinburgh.gov.uk

Appendix 1

Consultations

NAME: Environmental Protection
COMMENT: No objections.
DATE: 29 November 2022

NAME: Roads Authority
COMMENT: AWAITING
DATE: 2 December 2022

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

Comments for Planning Application 22/04345/FUL

Application Summary

Application Number: 22/04345/FUL

Address: Unit 4 27 Bankhead Terrace Edinburgh EH11 4DY

Proposal: Change of Use from administration office (Class 4) to private adult club (Sui Generis)

Case Officer: Local1 Team

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Neighbour-Commercial

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I work around the corner from this place. After 6 pm the whole place is deserted. I think it would be extremely unsafe for young girls or women to come out of this club. When I work late I sometimes feel unsafe at night. I think this is an accident waiting to happen.

having an establishment like this in an industrial estate prevents proper businesses from moving in and setting up proper businesses. I know my employer has been struggling to get additional space in the industrial estate and has been unable to and is now looking out with the city.

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Case Officer: Local1 Team

Customer Details

Name: Not Available

Address: Not Available

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Case Officer: Conor MacGreevy

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Neighbour-Commercial

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Object Change of Use from administration office (Class 4) to private adult club (Sui Generis)

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Case Officer: Conor MacGreevy

Customer Details

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Case Officer: Conor MacGreevy

Customer Details

[REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Ward Councillor

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Policy Emp 8 Business and Industry Areas

"Development, including change of use, which results in the loss of business, industrial or storage floorspace or potential will not be permitted in these areas."

Comments for Planning Application 22/04345/FUL

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Case Officer: Conor MacGreevy

Customer Details

Name: Not Available

Address: Not Available

Comment Details

Commenter Type: Ward Councillor

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Policy Emp 8 Business and Industry Areas

"Development, including change of use, which results in the loss of business, industrial or storage floorspace or potential will not be permitted in these areas."

MEMORANDUM

To: Planning Officer
Conor MacGreevy

From: Transport
Steven Saunders

Our Ref: 22/04345/FUL

22/04345/FUL
UNIT 4
27 BANKHEAD TERRACE
EDINBURGH
EH11 4DY

TRANSPORT CONSULTATION RESPONSE

Summary Response

No objections to the application.

Full Response

No objections to the application.

Steven Saunders

TRANSPORT
Steven Saunders
Transport Officer 02.12.2022