

Development Management Sub-Committee Report

Wednesday 21 June 2023

**Application for Planning Permission
111 Dalry Road, Edinburgh, EH11 2DR**

**Proposal: Change of use to from Class 1 to Class 3 after
amalgamation of No. 109 and No. 111 (as amended).**

**Item – Committee Decision
Application Number – 23/00568/FUL
Ward – B07 - Sighthill/Gorgie**

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 objections and the recommendation is to grant planning permission.

Recommendation

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

Summary

The proposals comply with the relevant policies contained within National Planning Framework 4, the Edinburgh Local Development Plan, and the relevant non-statutory guidance. The proposal is acceptable in principle and would not have a detrimental impact on residential amenity. There are no material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The site comprises of two ground floor units (one in use as a hot food takeaway and one in use as an internet cafe) within a 4-storey tenement building.

Description of the Proposal

Planning permission is sought for the amalgamation of 109 and 111 Dalry Road and to change the use of the premises to Class 3.

Scheme 2 provides details of the acoustic ceiling in accordance with page 10 of acoustic report.

Supporting Information

- Acoustic report.

Relevant Site History

22/03657/FUL

111 Dalry Road

Edinburgh

EH11 2DR

Change of Use to from class 1 to class 3 after amalgamation of #109 and #111

Refused

24 November 2022

21/01994/FUL

111 Dalry Road

Edinburgh

EH11 2DR

Installation of external ducts.

Granted

30 September 2021

20/03903/FUL

111 Dalry Road

Edinburgh

EH11 2DR

Change of use from office to hot food takeaway.

Granted

3 March 2021

15/03020/FUL

107 - 109 Dalry Road

Edinburgh

EH11 2DR

Change of use from internet cafe to coffee shop, offering hot drinks and sandwiches, as well as providing seating for customers. There will be no cooking, only sandwich preparation.

Granted

4 August 2015

Other Relevant Site History

No other relevant site planning 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: 28 February 2023

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 10 March 2023

Site Notices Date(s): Not Applicable

Number of Contributors: 9

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 policies to be considered are:

- NPF4 Policy 1 Climate and Nature Crises

- NPF4 Policy 27 City, Town, local and Commercial centres
- LDP Design policies Des 1 and Des 12
- LDP Shopping and Leisure Policy Ret 11
- LDP Housing Policy Hou 7

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

Principle

The site is located within the Gorgie/Dalry Town Centre and such uses are supported in defined centres. The street is a busy commercial thoroughfare, and the class 3 use is acceptable in this location. Whilst there are other such uses on Dalry Road, this specific location would not represent an over-concentration of such uses and therefore complies LDP Policy Ret 11 subject to amenity considerations which are assessed fully below.

The site is in a shopping frontage where Policy Ret 9 states that not more than four consecutive uses should be in non-shopping use as a result of the development. However, the premises at 109 Dalry Road is already in use as a cafe and forms part of four consecutive non-retail units as existing. The proposal would therefore have a neutral impact in terms of the wider retail function and would preserve the existing commercial vitality of the group.

The proposal has a neutral impact in terms of NPF4 Policy 1 and LDP Ret 9 and complies with NPF4 Policy 27 and LDP Policy Ret 11.

Size, Scale and Design

The external alterations to the commercial unit are acceptable and are in keeping with the existing façade. The proposals are acceptable in terms of their design and form, choice of materials and positioning are compatible with the character of the existing building.

The proposals comply with LDP Policies Des 1 and Des 12.

Amenity

There are residential properties above the application site, however, it is not considered that there will be an unacceptable increase in noise, disturbance, on-street activity, or anti-social behaviour to the detriment of living conditions for nearby residents. The area is mixed in character and traffic noise already exists on Dalry Road which is likely to provide some masking of any noise.

A Noise Impact Assessment (NIA) was provided, and Environmental Protection raise no objections with regard to amenity, subject to conditions.

There will be no detrimental impact upon residential amenity and the proposal complies with the requirements of LDP Policy Hou 7.

Parking and Road Safety

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.

Conclusion in relation to the Development Plan

The proposal complies with the relevant policies within NPF4 and the LDP and are in accordance with the relevant non-statutory guidance.

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 total of nine objections have been received.

A summary of the representations is provided below:

material considerations

- Negative impact on residential amenity (noise, odours, disturbance); This has been addressed above in a).
- Increased wastage: A waste strategy should be agreed between applicant and CEC's Waste Services.
- Increased vehicle traffic and parking issues; This has been addressed above in a).

non-material considerations

- Brightness of the neon sign on front of store; This would be assessed under an application for Advertisement Consent.
- Structural impact on building; This would be assessed under an associated Building Warrant application.

Conclusion in relation to identified material considerations.

None of the identified material considerations outweigh the proposals compliance with the Development Plan.

Overall conclusion

The proposals comply with the relevant policies contained within National Planning Framework 4, the Edinburgh Local Development Plan, and the relevant non-statutory guidance. The proposal is acceptable in principle and would not have a detrimental impact on residential amenity. There are no material considerations that outweigh this conclusion.

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. Prior to the use being taken up, the ceiling throughout 109 and 111 shall be upgraded with an acoustic ceiling as per the specification in drawing GA (00)001 rev. A. No services shall puncture this ceiling with the exception of lighting power cables. Services shall be run in a void between the acoustic ceiling and false ceiling below. No speakers to be directly fixed to the ceiling or the walls placed on the floor without appropriate isolation. Any mounts required should have a natural frequency of below 10Hz.
3. Prior to the use being taken up, the new ductwork to the front façade shall be designed and installed such that maximum sound power levels specified in Technical Report No. R-8960A-EP1-DJC, 24th April 2023, is not exceeded.
4. Prior to the use being taken up, the new ductwork noise to the rear façade shall be designed and installed such that maximum sound power levels specified in Technical Report No. R-8960A-EP1-DJC, 24th April 2023, is not exceeded.
5. Prior to the use being taken up, the new extractor fans and ductwork shall be suspended using anti-vibration mounts and flexible connectors.

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

Informatives

It should be noted that:

1. This consent is for planning permission only. Work must not begin until other necessary consents, e.g., listed building consent, have been obtained.
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.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 10 February 2023

Drawing Numbers/Scheme

01, 02A, 03, 04

Scheme 2

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

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Appendix 1

Summary of Consultation Responses

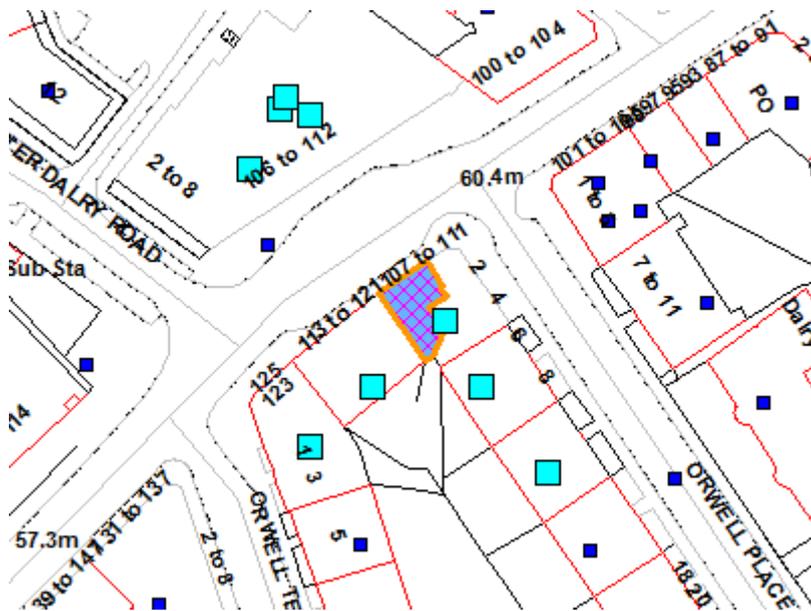
NAME: Environmental Protection

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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