

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100653845-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Format Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Shona	Building Name:	Holyrood Business Park
Last Name: *	Mackay	Building Number:	146
Telephone Number: *	01316617666	Address 1 (Street): *	Duddingston Road West
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH16 4AP
Email Address: *	formatdesign@aol.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:

Mr

You must enter a Building Name or Number, or both: *

Other Title:

Building Name:

First Name: *

S

Building Number:

235

Last Name: *

Tarakci

Address 1
(Street): *

235-237 Leith Walk

Company/Organisation

Address 2:

Telephone Number: *

Town/City: *

Edinburgh

Extension Number:

Country: *

Scotland

Mobile Number:

Postcode: *

EH6 8NY

Fax Number:

Email Address: *

Site Address Details

Planning Authority:

City of Edinburgh Council

Full postal address of the site (including postcode where available):

Address 1:

235-237 LEITH WALK

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH6 8NY

Please identify/describe the location of the site or sites

Northing

675447

Easting

326755

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Please see attached appeal statement

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see attached appeal statement

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Please see attached appeal statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

23/03406/FUL

What date was the application submitted to the planning authority? *

04/08/2023

What date was the decision issued by the planning authority? *

22/11/2023

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To allow the members of the Local Review Body to visit the application site and its environs

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Shona Mackay

Declaration Date: 04/12/2023

Appeal Statement to Local Review Body re 235 - 237 Leith Walk, Edinburgh, EH6 8NY

Change of use from Class 1 (retail) to mixed-use Class 3 (ground floor) and existing Class 1A (cellar) - Application No: 23/03406/FUL



Appeal Site – 235-237 Leith Walk

Reason for refusal:

“Insufficient information has been supplied to allow an adequate assessment of impact of the proposal on residential amenity and therefore the proposals are contrary to National Planning Framework 4 Policy 27 City, town local and commercial centres, Edinburgh Local Development Plan Policy Ret 11, Food and Drink Establishments and Policy Hou 7 Inappropriate Uses in Residential Areas”

We are appealing against the refusal decision on the basis that adequate information was submitted to make an adequate assessment, and the additional information was not necessary nor relevant to this restricted cooking application.

The application appears to have been assessed on the basis that this is a proposal for a **Full** Class 3 use to include cooking. This is **NOT** the case; the application is for a coffee shop (Class 3 with restricted cooking). The proposal only required a change of use application because as a coffee shop it has tables and chairs.

There have been **no** complaints and **no** objections to the proposal.

As agents, we had a similar application for a restricted Class 3 Coffee Shop (below flats) recently approved at 7 Brunswick Place, planning reference 23/02919/FUL granted approval on 6th October 2023. There was no request for a Noise Impact Assessment or for ventilation details for this application. Photo of site and planning approval below:



7 Brunswick Place – Approval 23/02919/FUL

Format Design.
FAO: Shona Mackay
Holyrood Business Park
146 Duddingston Road West
Edinburgh
EH16 4AP

Not Just Coffee.
7 Brunswick Place
Edinburgh
EH7 5HW

Decision date: 6 October 2023

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

Retrospective change of use from Class 1A shop to Class 3 (restricted) coffee shop
with no cooking (as amended).
At 7 Brunswick Place Edinburgh EH7 5HW

Application No: 23/02919/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 6 July 2023, 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 **Granted** 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;

1. Cooking equipment associated with any Class 3 proposals on site to be restricted to the use of 1 microwave, 1 soup kettle and a single panini machine only. No other equipment is permitted for use without written permission from the Planning Authority.

Reasons:-

1. In order to protect amenity.

Informatives:-

It should be noted that:

It would be understandable to request details of acoustic mitigation and ventilation designs if this was an unrestricted Class 3 (cooking) restaurant, but the appeal site is **NOT** a full Class 3 restaurant it is for a coffee Shop (restricted Class 3) – see photo of sales counter below showing items for sale:



Goods counter

Extract from the report on handling below:

“Principle of Development

The proposal is neutral in the impact on sustainability and the environment, and thus complies with NPF4 Policy 1.

The site lies within Leith Town Centre where the proposed use would be in keeping with the range of neighbouring uses, therefore complying with NPF 4 Policy 27.

The applicant has failed to supply additional information requested relating to VENTILATION of the unit and its impact of NOISE to neighbouring properties. As a result, it is not possible to establish if the proposal is likely to have an unacceptable impact on residential amenity.”

Further Appeal Comments

The application is for a coffee shop with restricted cooking.

There is **NO** ventilation proposed.

There are **NO** commercial fridges, air conditioning condenser units or amplified music proposed.

Therefore, there was **NO** requirement for **Ventilation** details or a **Noise** Impact Assessment (NIA)

It was clearly possible to establish if the proposal is likely to have an unacceptable impact on residential amenity, as it is currently operating as a coffee shop.

There have been no complaints or objections which clearly establishes that there is no unacceptable impact on residential amenity.

It is also clear from the emails between us and the Planning Authority that this is a retrospective application for a restricted cooking Class 3.

We respectfully request that the Local Review Body will consider this application acceptable, with a condition to be the same or similar as the recently approved application at 7 Brunswick Place, referred to above, which we were also agents for.

Any Condition could read:

Cooking equipment associated with any Class 3 proposals on site to be restricted to the use of 1 microwave, 1 soup kettle and a single panini machine only. No other equipment is permitted for use without written permission from the Planning Authority.

Reason:

In order to protect amenity.

Format Design.
19 February 2024

Please also note the applicant's statement below:

**Applicant's Comments re appeal - 235-237 Leith Walk – Planning Application
Reference 23/03406/FUL**

1. The application was to regularise what is an existing coffee shop with restricted (no cooking) Class 3 use.
2. The application is always described as the above.
3. Original Description - PROPOSED CHANGE OF USE FROM CLASS 1 SHOP WITH LIMITED SIT IN TO CLASS 3 RESTAURANT WITH RESTRICTED COOKING EQUIPMENT AS FOLLOWS. MICROWAVE, SOUP URN, PANINI GRILL & TOASTER
4. The application was amended to remove the basement from the change of use as we don't use it due to restricted headroom.
5. What we applied for is as above, as this is what we have been using it as and apologise as we were not aware a coffee shop required planning permission.
6. The application has been refused for reasons that should not apply to our unit.
7. It appears that Environmental Protection and the Planning Department acknowledge that the proposal (in retrospect) is a coffee shop with restricted cooking as in the original description. (see emails attached).
8. Environmental Protection and Planning insisted on a Noise Impact Assessment (NIA) for:
- a) commercial fridges and freezers b) Noise from Air Conditioning c) Music, we do not have any of those pieces of equipment, apart from basic normal household type fridges for butter, milk etc and soft music, if any.
9. My planning agent also made a recent application for a similar use under flats and in similar circumstances in retrospect at 7 Brunswick Place, planning reference 23/02919/FUL, which was granted without any requirement for an NIA. This was approved with a condition on restricted cooking equipment.
10. We hope that you can look on our application positively and on the same basis as the 7 Brunswick Place application, and we are very happy to have the same condition applied to our application, which is as follows: -

Cooking equipment associated with any Class 3 proposals on site to be restricted to the use of 1 microwave, 1 soup kettle and a single panini machine only. No other equipment is permitted for use without written permission from the Planning Authority.

Thank you for your consideration.

Mr Serkan Tarakci
Applicant