

Development Management Sub Committee

Wednesday 18 December 2013

**Application for Planning Permission 13/04453/FUL
At 30 Mcdonald Place, Edinburgh, EH7 4NH
Variation of Condition 3 of planning permission 834/88 to
extend opening hours to: 07:00 to 20:00 hours (Monday to
Saturday) and 08:30 to 12:00 hours (Sunday)**

Item number

Report number

Wards

A12 - Leith Walk

Links

[Policies and guidance for
this application](#)

LPC, CITH8,

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Executive summary

Application for Planning Permission 13/04453/FUL At 30 Mcdonald Place, Edinburgh, EH7 4NH Variation of Condition 3 of planning permission 834/88 to extend opening hours to: 07:00 to 20:00 hours (Monday to Saturday) and 08:30 to 12:00 hours (Sunday)

Summary

The proposals comply with the development plan and have no adverse effect upon neighbouring amenity or road safety. Accordingly, the relevant condition is amended as requested.

Recommendations

It is recommended that this application be Granted subject to the details below (in section 3 of the main report).

Financial impact

There are no financial implications to the Council.

Equalities impact

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

Pre-Application Process

The proposal was the subject of pre-application discussions resulting from planning enforcement investigations.

Publicity summary of representations and Community Council comments

The application was advertised on 1 November 2013 and attracted 6 letters of representation from neighbouring properties. Five letters raise objections to the proposal and one letter supports the proposed hours of operation.

Material Representations in Objection

- road safety;
- existing operation hours are adequate;
- authorised operating hours; and
- noise and disturbance from early customer and delivery vehicles.

Material Representations in Support

- noise levels, outwith the approved hours of operation, has been negligible.

Non-material Representations

- goods vehicles waiting within the adjoining road before the premises open;
- additional traffic within the public road from construction traffic associated with the development opposite;
- litter blowing into neighbours' gardens associated with the onsite operations.

Community Council Comments

New Town/Broughton Community Council has made no representation.

A full assessment of the representations can be found in the main report in the Assessment section.

Background reading / external references

- To view details of the application go to
- [Planning and Building Standards online services](#)

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1. Background

1.1 Site description

The application site comprises an existing Cash & Carry warehouse situated at the head of McDonald Place a cul-de-sac road situated off Bellevue Road to the west. It is also accessed via McDonald Street from McDonald Road to the east.

The property has a vehicular access situated at the northern apex of the site; diagonally opposite the junction between McDonald Place and McDonald Street. This leads to a hard surfaced car parking, manoeuvring area and goods vehicle service yard along the north western boundary of the site. There is also a car parking area along the north eastern boundary with overall provision for 50 car parking spaces within the site.

The building comprises a large, single-storey warehouse building that extends to the south east and south western boundaries of the site. The open area to the north western boundary of the site provides the service yard and associate goods access.

To the east of the site, at the head of the McDonald Place cul-de-sac, there is a mix of houses and commercial buildings. To the south-east there is a five-storey flatted block, fronting Hopetoun Street. To the south-west are residential properties fronting onto a small cul-de-sac off Annandale Street and to the north-west there is a similar arrangement of residential properties fronting onto a small cul-de-sac off Bellevue Road.

To the north there is the site of a former furniture warehouse and showroom; fronting both McDonald Place and McDonald Street. That site is presently under construction as a residential development of 67 units (Ref 12/03518/FUL) granted planning permission on 3 June 2013.

1.2 Site History

The relevant site history is:

3 August 1988 - Planning permission was granted for a proposed change of use from printing works to Cash & Carry warehouse (Ref 834/88).

That permission was subject to the following conditions, in the interests of amenity:

(1) all amplified music or vocals shall be so controlled as to be inaudible when monitored within any neighbouring residential premises;

(2) the design and installation of any plant or equipment shall be such that; (a) any associated noise shall comply with NR25 when measured within any neighbouring living apartment, and (b) no structure borne vibration shall be perceptible within any neighbouring living apartment;

(3) the hours of operation shall be restricted to between 8am and 8pm Monday to Friday and 8am to 12 noon Saturday with no deliveries or loading outwith these hours;

(4) the road layout shall be amended shown on Drawing HY7/1168/49 (as prepared by the Director of Highways) and shall be implemented to the satisfaction of the Director of Planning;

(5) a 2 metre high brick wall shall be erected along the south west boundary of 37 McDonald Place and the premises, and a 2 metre brick wall shall be erected along the length of the north west boundary of the site to the satisfaction of the Director of Planning; and

(6) samples of the proposed external finishes shall be submitted to and approved in writing by the Director of Planning before any work is commenced on the site.

12 June 2012 - A planning enforcement investigation was carried out into an alleged operation of the premises in contravention of the authorised hours of operation (Ref 12/00364/ECOND). That investigation resulted in the submission of the retrospective application.

11 October 2012 - Planning permission was granted, in retrospect and for a temporary period of 1 year, for a variation of condition No 3 (Ref 834/88) to extend opening hours to: 07:00 - 20:00 hours (Monday to Saturday) + 08:30 - 12:00 hours (Sunday) (Ref 12/02594/FUL).

That permission was granted subject to the following condition:

"Permission for the extended hours of operation of the premises; to those between 07:00-20:00 hours Monday to Saturday and 08:30-12:00 hours on Sundays, with no deliveries or loading outwith these hours; is hereby granted for a limited period of one year from the date of this grant of planning permission. At the end of that period of time the hours of operation shall revert back to those originally approved, namely; between 08:00-20:00 hours Monday to Friday and 08:00-12:00 hours on Saturday, with no deliveries or loading outwith these hours."

17 December 2012 - A further planning enforcement investigation was carried out into an alleged non-compliance with condition received from a neighbouring resident, via Councillor Gardiner (Ref 12/00777/ECOND). It was found that there had been no breach of planning control and no further action was taken.

The previous temporary consent expired, on 10 October 2013, and the condition required that the operator revert back to the original hours of operation. Given that those operational hours continued the enforcement investigation also resulted in the submission of this application.

2. Main report

2.1 Description Of The Proposal

This application is made for a permanent variation of the hours of operation of the premises from the original planning permission (Ref 834/88) dated 3 August 1988. This follows a previous grant of permission for a temporary, one year period of the same hours of operation.

The original condition provides: "The hours of operation shall be restricted to between 08:00 and 20:00 hours Monday to Friday and 08:00 and 12:00 hours Saturday with no deliveries or loading outwith these hours".

It is proposed to permanently vary those operational hours to, those between 07:00 and 20:00 hours Monday to Saturday and 08:30 and 12:00 hours Sunday. This request is made following the trial period for those same hours, permitted by the previous temporary permission, made in order to assess the impact of the development on its immediate surroundings.

Supporting Statement - There is an acoustic report and an addendum submitted in support of the application; available to view on the Planning and Building Standards On-line Service.

2.2 Determining Issues

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

2.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- (a) the proposals affect road safety;
- (b) the proposals will result in an unreasonable loss of neighbouring amenity;
- (c) the proposals have any equalities or human rights impacts; and
- (d) representations raise issues to be addressed.

a) Road Safety Issues

This application relates solely to a revision of the operating hours of an existing Cash & Carry warehouse operation which has been in operation on the site since 1988.

Matters relating to the capacity of the neighbouring public roads, to accommodate the traffic generated by the operation of the premises, were fully assessed at that time and are not material to the determination of this specific planning application.

b) Neighbouring Amenity

As the application is limited to an assessment of the proposed hours of operation any determination is equally limited to either an acceptance or refusal of the revised hours as identified by the applicant. Therefore, in its assessment, the Council is limited to either a variation of the existing condition No 3 or a refusal of this application.

Environmental Assessment has advised that no noise complaints have been received by the Council's 'Noise Team' relating to the operational or delivery activities over the last 12 months.

However, the application has been the subject of a number of representations from local residents identifying noise and disturbance as a principle issue associated with the temporary change in the operating hours of the premises.

Therefore, whilst there have been no complaints received by the Council's 'Noise Team', it should be identified that complaints have been received by Planning regarding operations on the site prior to 07:00 hours.

Those alleged breaches have, however, been identified as staff members arriving at the site in preparation for operations commencing to the public and no enforcement action has been taken as a result.

The applicant has submitted a supporting noise impact assessment. It reaffirms the previous findings, that noise associated with the increased hours would not impact upon residential amenity.

It also addresses the concerns regarding the noisiest operations at the property, their proximity to the residential properties and considers them against the provisions of the World Health Organisation, regarding noise, the British Standards and the defined day and night time hours.

The site is located within the defined urban area. Within that area, it is reasonable to expect a 07:00 hours start to the working day, including Saturdays. Accordingly, the proposed hours of operation starting at 07:00 hours Monday to Saturday are acceptable.

In terms of providing one day a week of relative quiet for neighbouring occupants, on Sunday mornings, the applicant proposes commencing operation of the premises on at 08:30. This is acceptable in terms of general residential amenity.

Therefore, Environmental Assessment concludes that the operations are being suitably managed in terms of neighbouring residential amenity, and they raise no objections to the proposal.

In both the original condition No 3, the 1988 grant of planning permission, and in the previous temporary variation of those operating hours, the time periods have been restricted with the addition of the words; "*... with no deliveries or loading outwith these hours*". It is therefore proposed that those words continue to be incorporated into the proposed variation of condition as applied for here.

As such the proposed permanent revision to the operating hours at the site would not result in any detrimental impact on the existing levels of residential amenity presently enjoyed by the occupants of the neighbouring residential premises to the site.

c) Equalities and Human Rights Impacts

This application has no impact in terms of equalities or human rights.

d) Public Comments

Material Representations: Objections

- road safety - assessed in section 2.3(a);
- existing operation hours are adequate - assessed in section 2.3(b);
- authorised operating hours 2.3(b); and
- noise and disturbance from early customer and delivery vehicles - assessed in section 2.3(b).

Material Representations in Support

- noise levels, outwith the approved hours of operation, has been negligible - assessed in section 2.3(b).

Non-material Representations

- goods vehicles waiting within the adjoining road before the premises open - this is not a material planning consideration but is a matter for control under the provisions of another legal regime.
- additional traffic within the public road from construction traffic associated with the development opposite - this is not a material planning consideration but is a matter for control under the provisions of another legal regime.
- litter blowing into neighbours' gardens associated with the onsite operations - this is not a material planning consideration but is a matter for control under the provisions of another legal regime.

There was no response from New Town/Broughton Community Council.

A Committee decision is required as the condition limiting hours of operation for a temporary period was applied by Committee.

CONCLUSIONS

In conclusion, the proposals comply with the development plan and would not prejudice residential amenity or road safety. There are no material considerations which outweigh this conclusion.

3. Recommendations

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

3.2 Conditions/reasons

Conditions:-

1. The hours of operation shall be restricted to between 07:00-20:00 hours Monday to Saturday and 08:30-12:00 hours on Sundays with no deliveries or loading outwith these hours.

Reasons:-

1. In the interests of amenity.

Statutory Development Plan Provision

Edinburgh City Local Plan - Urban Area.

Date registered

25 October 2013

Drawing numbers/Scheme

01,

Scheme 1

David R. Leslie

Acting Head of Planning and Building Standards

Links - Policies

Relevant Policies:

Relevant policies of the Edinburgh City Local Plan.

Policy Hou 8 (Inappropriate Uses in Residential Areas) establishes a presumption against development which would have an unacceptable effect on the living conditions of nearby residents.

Appendix 1

Consultations

Environmental Assessment

The application proposes to vary an existing condition of consent currently applied to a cash and carry retail premises. The condition under consideration presently restricts the operational and delivery hours associated with the premises. Residential properties surround the site to the north, north-west, north-east, south-west and south-east. The premises are entered by both patrons and delivery vehicles from the main entrance off McDonald Place which is a reasonably quiet cul-de-sac street.

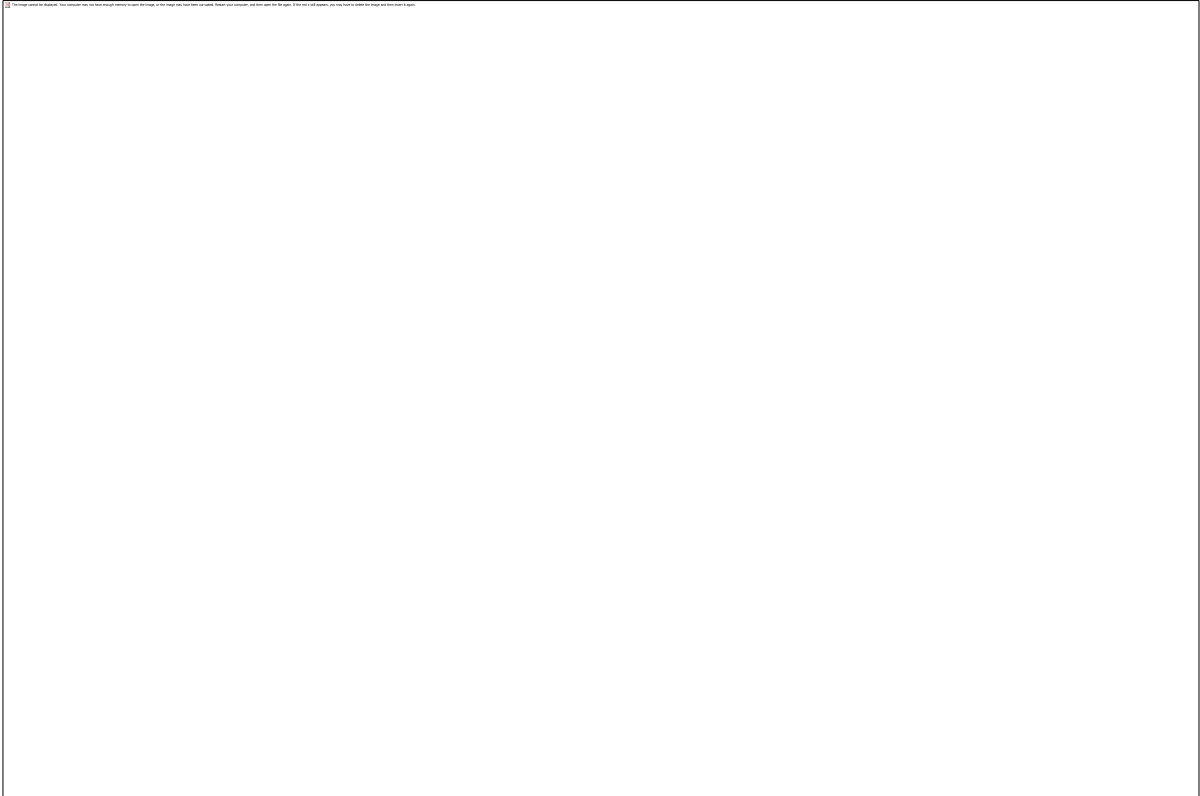
An application was received by the Council to vary the hours of operation and deliveries to the application premises in July 2012 (Ref 12/02594/FUL). Consent was granted for the premises in October 2012 to operate within the hours of 07:00-20:00 Monday to Saturday and 08:30-12:00 hours on Sundays. However, the consent was subject to a one year trial period to consider the impacts associated with the proposed earlier and later hours. This application requests that the proposed hours be made permanent now that the one year trial period nears completion.

Environmental Assessment considered that noise would be the most significant impact associated with the increased hours and mainly from deliveries to the premises. In this regard, a noise impact assessment has been provided in support of this latest application which reaffirms the same results of the noise impact assessment provided in support of application 12/02594/FUL. The assessment advises that noise associated with the increased hours will not impact upon residential amenity. Environmental Assessment was content to support this conclusion and responded to that effect for the application in 2012. Further to this, no noise complaints have been received by the Council Noise Team relating to the operational or delivery activities over the last 12 months. It is therefore concluded that the operations are being suitably managed to ensure that amenity is not being detrimentally affected by the hours proposed.

Therefore, Environmental Assessment has no objections to this proposed development subject to the following condition:

- 1. The hours of operation shall be restricted to between 07:00-20:00 hours Monday to Saturday and 08:30-12:00 hours on Sundays with no deliveries or loading outwith these hours.*

Location Plan



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