

**PLANNING STATEMENT FOR PROPOSED CHANGE OF USE FROM CLASS 1 TO CLASS 3  
RESTAURANT**

**AT**

**UNIT 3, PENICUIK SHOPPING CENTRE, JOHN STREET, PENICUIK EH26 8LE**



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## Introduction

The property is a terraced shop unit within Penicuik Town Centre. It sits on the east side of this pedestrianised part of John's Road. The principal traffic route through the town now bypasses the centre via St Kentigern's Way to the east side, part of the redevelopment of the centre at the start of the millennium.

Surrounding uses are typical town centre uses with a mix of retail, financial/professional services and class 3 uses. There is a public car park to the east side of the centre accessed from St Kentigern's Way.

The property itself is a one and a half storey unit with some ancillary staff room accommodation above. This side of the street is a purpose-built commercial centre with no residential above. There is a large service yard to the rear, also accessed from St Kentigern Way.



**Figure 1: The site location within Penicuik**

The property sits adjacent to the former job centre, now vacant, beyond which is a retail pharmacy. To the right side (south) is a Greggs retail baker's premises, beyond which is an e-cigarette shop.

The property sits within the designated Town Centre of Penicuik. It is out with the Conservation Area.

There is no relevant planning history for the unit.

## 2. The proposal

This is a change of use from class 1 (retail) to class 3 (restaurant). There will likely be an ancillary level of takeaway.

There are no external changes to the building other than a flue popping up through the rear roof plane. Nor is there any substantial changes to its layout proposed, as seen from figures 4 and 5 below. This application is for a change of use only.

The property sits within an entirely commercial centre and so the exhausting of fumes is not as great an issue as it would be on a mixed-use high street. A lower-level exhaust point to the rear should therefore be appropriate.



Figure 2: The shop unit as it appears today

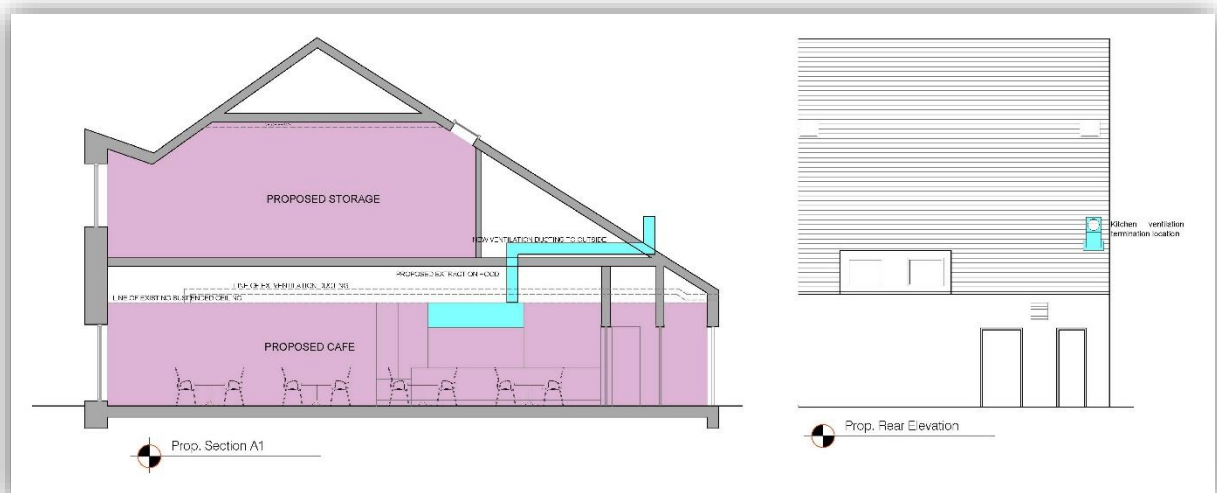


Figure 3: The proposed section and rear elevation showing ventilation

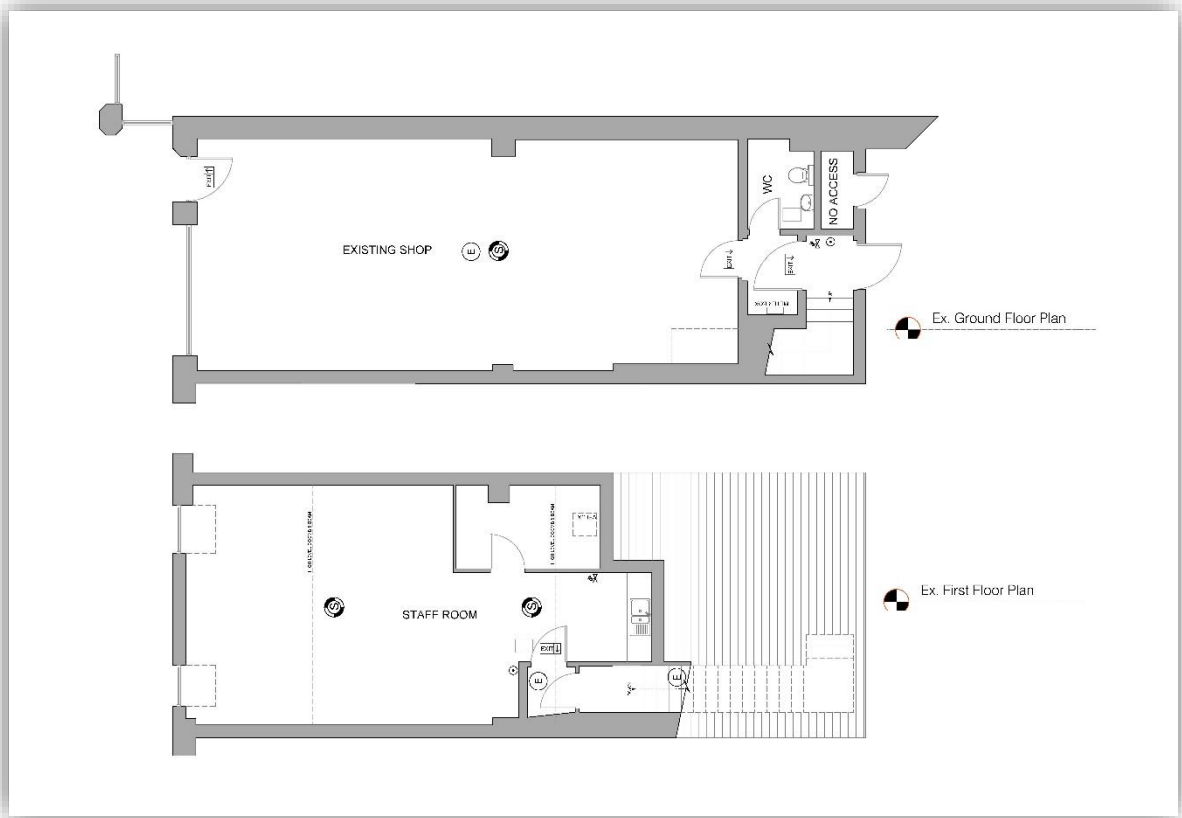


Figure 4: The existing floor plans

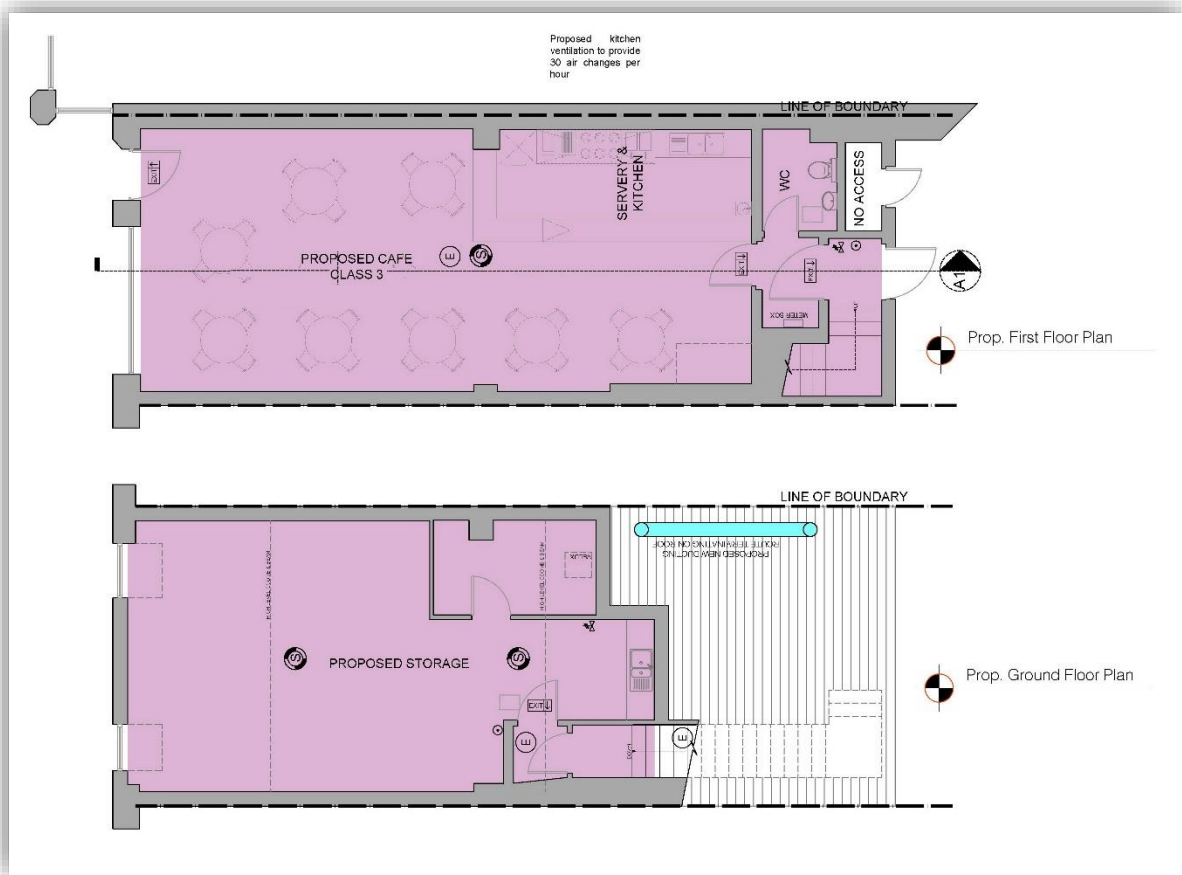


Figure 5: The proposed floor layouts

### 3. Constraints and Policy Considerations

The property is within a designated Town Centre.

It is entirely surrounded by commercial properties.

The property is located on a fully pedestrianised street.

The site is serviced from the rear service yard.

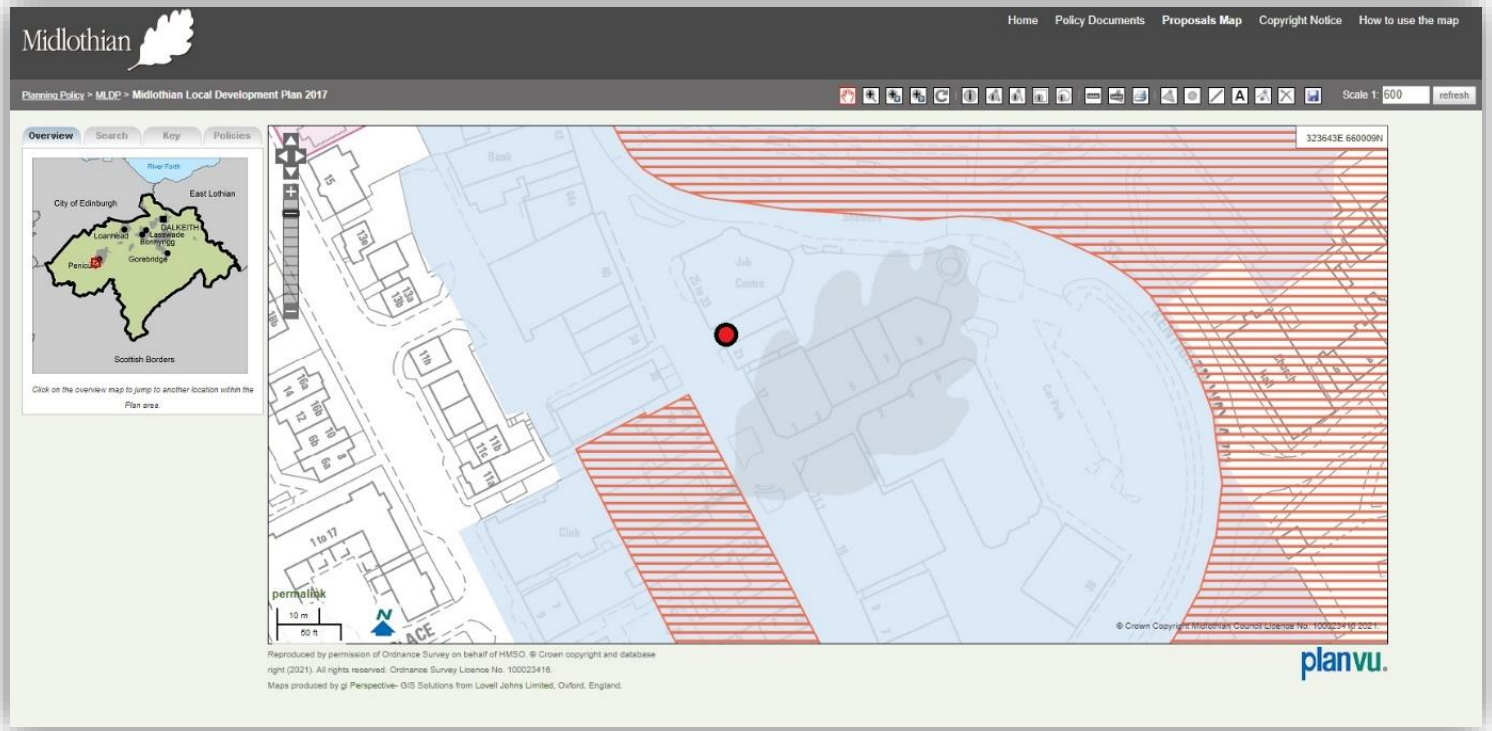


Figure 3: An excerpt from the MLDP map

The principal development plan policy in this location is TCR1, set out in its full form in the appendix.

A further major consideration will be the Supplementary Guidance "**Food and drink and other non-retail uses in Town Centres**".

#### **4. Assessment**

Because of the location within a designated local centre, and it being outwith the conservation area, the location on a pedestrianised street and the lack of proximity of any residential property, mean that the main issues to consider are the impacts upon the character, vitality and viability of the local centre as a result of the change of opening hours, and any other physical impacts that it may have upon existing character.

#### **The Character of the Town Centre**

Policy **TCR 1** - Town Centres and the **Supplementary Guidance** "Food and drink and other non-retail uses in Town Centres" will be the only policies that will require to be tested.

*"Proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role, as set out in the network of centres and subject to the amenity of neighbouring uses being preserved."*

The proposed use is a recognised town centre use and one which will add to the vitality and viability of the town centre, and it will extend the hours of activity beyond the usual shop closing times (5 to 6 p.m.) and therefore enhance the character of the centre. It is a location where class 3 and takeaway uses are encouraged, particularly as this part of the town centre has no residential accommodation to be affected by the adverse aspects of such uses.

The town centre has a number of vacant units, in particular this unit and others near to it, and the proposed use will ensure that this adverse impact of dead frontage will be remedied at least in part.

*"Change of use from retail will only be permitted if the subsequent use is one which contributes positively to footfall in, and the vitality of, the town centre\* and subject to the Council being satisfied that the proposals are acceptable in terms of the amenity, environment, traffic and parking arrangements of the town centre, with reference to the relevant Supplementary Guidance."*

The policy confirms at \* that acceptable uses include premises where food and drink is consumed; pubs; and hot food takeaways, amongst others. Therefore, the proposed use fully conforms to the DP policy.

A further consideration will be the Supplementary Guidance "**Food and drink and other non-retail uses in Town Centres**". This advises "*Hot food takeaways will not be permitted in premises where there are residential properties on the floor or floors above or immediately on either side, and on the floors above such adjacent properties. The only exception to this is where it can be demonstrated that the hot food takeaway will have no adverse impact on neighbouring residential amenity.*"

The site is one that has no residential property above or to either side and so it is perfectly well suited to this location. There are no high-level residential premises near to the site and so ventilation upwards to the rear should not lead to any issues.

The rear of the site is a large service yard as the following two images show.



**Figure 4: The south side of the service yard, looking towards the rear of the site**



**Figure 5: The north side of the service yard, looking towards the rear of the site**

The SPG advises *“Food and drink uses, including hot food takeaways, and other class 3 uses generally positively contribute to the vitality and viability of town centres, adding to the vibrancy of these areas throughout the day and into the evening. Consequently there is a general presumption in favour of these operations being located within town centres.”*

The proposed use is therefore a positive one, and particularly so given ongoing issues of vacancy.

The SPG goes on to advise *“Consideration will be given to the cumulative effect of additional hot food takeaway establishments on the vitality and viability of the town centre. The*

*dominance of any one use in town centres could have a detrimental impact on their health and character.”* On inspection, it does not appear to be the case that there is what could be considered an excessive concentration of such uses here. There is a Domino’s Pizza round the corner opposite B&M, and there is a small Chinese takeaway at the north end of the precinct, called “Yu”. Therefore, the proposal does not conflict with this objective, and any impact upon the health and character of the centre will be positive.

The SPG also notes that *“Careful consideration needs to be given to the impact of litter in such proposals..... The Planning Authority may require the provision of a litter bin located at the front of any premises with a takeaway element.”*

This can easily be resolved, if required, by the addition of a litter bin outside the premises. There is already one directly outside (figure 2) and it is hoped that this will not be necessary as it will clutter the public space.

It is also noted that *“Planning permission will not be supported where it would present a threat to road safety, for example by encouraging illegal or inconsiderate parking or on-street parking at a dangerous location.”*

As this is a pedestrian precinct, this should not be an issue. There is also a large public car park close by.

*“In general terms, where hot food takeaways are considered acceptable they will be restricted to opening hours of no later than 10pm on Sundays and midnight on other days.”*

The applicant was not proposing restricted hours; however, these hours appear to be reasonable to allow the business to operate as planned.

With regards to protecting the retail nature of town centres, the SPG makes the following statement: -

*“The Council seeks to maintain a sustainable level of retail within town centres whilst also supporting other appropriate uses in order to enhance the vitality of these areas. The change of use of shops to non-retail uses in town centres will be supported provided the proposal:*

- *demonstrates to the satisfaction of the Council that there is no realistic prospect of a site continuing in retail use (see Appendix 2 Submission Requirements);*
- *protects or enhances the level of footfall through the submission of information detailing the likely number of customers per day, such as through the submission of existing and projected footfall to the site;*
- *will lead to an improvement of the image and vitality of the town centre;*
- *will not result in 50% or greater of ground floor commercial units within 100 metres of the site being in low footfall level use; and,*
- *retains an active street frontage.”*

There is a good mix of retail and class 2 uses, and only very limited food uses within the precinct area. The number of vacant units highlights the present trend of a lack of willingness for retailers to invest in the High Street.

The proposed use will encourage footfall through the centre, including after shop closing times, which will ensure that more people are made aware of what is on offer in the high street, and also adding to the security of the area through increased staff and public presence.



There will be the usual requirements for ventilation, however, there will be no concerns for cooking effluvia escaping into sensitive properties such as residential uses, and so a high-level vent point should not be necessary.

Therefore, in summary, there appears to be significant positive attributes to the proposal, with no negative impacts perceivable.

### **Impact upon Urban Character**

The introduction of an active frontage will be very positive to the property and the area in general. Vacant units breed depression in a high street, and if it reaches a critical level, it can have very significant impacts on not only the economic viability of the centre but also its environmental character and the well-being of local residents.

No external alterations are proposed at this time. A ventilation system needs to be agreed, but this will have minimal impact. The shop colour and any signage are yet to be agreed, but as it is outwith the conservation area any colour change would be permitted development. If the signage requires advertisement consent, then this will be handled separately and will cover any amenity impacts.

### **Residential Amenity**

Whilst this should not be a critical issue it requires a brief statement. The use is class 3, and there will likely be an ancillary takeaway element, as expected from most class 3 uses.

The site could not be better located in the centre in this respect. It is a purpose-built commercial unit and has no residential above or to either side. It is unlikely that this situation will change. The property is significantly distant from the nearest properties that there will be no noise issues that would be seen as beyond that expected of a town centre.

### **Access and Transport**

The access to the unit is level with the precinct surface, as existing.

The site is on a pedestrian precinct and so the issue of people parking outside the unit to collect is not an issue. There is a large public car park to the east side of the centre, as well as access to a very good, frequent bus service. The property therefore has excellent accessibility.

## **5. Conclusions**

The critical determining issues will be the impact upon the character of the town centre.

Simply put, the proposal has no negative impacts, and can only be seen as a positive development.

It will introduce an accepted positive town centre use into a vacant retail unit, one of a pair of adjacent vacant units.

There will be no concerns regarding residential amenity or road safety.

The proposal is therefore fully supported by Development Plan policies and supplementary guidance and should therefore be approved.

## 6. Appendices

### **A - List of the relevant Policies of the Midlothian Local Development Plan 2016**

#### **Policy TCR 1 - Town Centres**

Proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role, as set out in the network of centres and subject to the amenity of neighbouring uses being preserved.

Change of use from retail will only be permitted if the subsequent use is one which contributes positively to footfall in, and the vitality of, the town centre\* and subject to the Council being satisfied that the proposals are acceptable in terms of the amenity, environment, traffic and parking arrangements of the town centre, with reference to the relevant Supplementary Guidance (paragraph 4.6.4).

Conversion of ground level retail space to residential uses will not be permitted.

The conversion of upper floors to housing and the formation of new residential space above ground-level structures in town centres is supported.

Proposals for open air markets will be supported in Midlothian's town centres provided the amenity of neighbouring uses and the functioning of the road network is not adversely affected.

*\* Acceptable uses in this regard would be: financial, professional or other services which are provided principally to visiting members of the public; premises where food and drink is consumed; pubs; hot food takeaways; hotels; non-residential institutions; premises for assembly and leisure; or other 'one of a kind' uses which contribute to the objective.*

**Supplementary Guidance "Food and drink and other non-retail uses in Town Centres"**. This advises *"Hot food takeaways will not be permitted in premises where there are residential properties on the floor or floors above or immediately on either side, and on the floors above such adjacent properties. The only exception to this is where it can be demonstrated that the hot food takeaway will have no adverse impact on neighbouring residential amenity."*



**THE ABOVE IMAGES AND THE FOLLOWING PAGES ARE A RECENT PHOTOGRAPHIC SURVEY OF THE CENTRE IN THE VICINITY OF THE APPLICATION PREMISES**



