



## PLANNING APPLICATIONS COMMITTEE

Report by Executive Director of Regeneration and the Economy

Contact: Karen Rattray Phone: 0141 287 6063

**Item 1**

19th November 2019

<b>APPLICATION TYPE</b>	Full Planning Permission		
<b>RECOMMENDATION</b>	Grant, subject to conditions		
<b>APPLICATION</b>	19/00494/FUL	<b>DATE VALID</b>	18.02.2019
<b>SITE ADDRESS</b>	100 Byres Road Glasgow G12 8TB		
<b>PROPOSAL</b>	Use of shop (Class 1) as office (Class 2)		
<b>APPLICANT</b>	Clydebuilt LP C/o Ediston Real Estate 1 St Andrews Square Edinburgh EH2 2BD	<b>AGENT</b>	Zander Planning Ltd Alex Mitchell 31 Balmoral Drive Bishopton Renfrewshire PA7 5HR
<b>WARD NO(S)</b>	11, Hillhead	<b>COMMUNITY COUNCIL</b>	02_022, Hillhead
<b>CONSERVATION AREA</b>		<b>LISTED</b>	
<b>ADVERT TYPE</b>		<b>PUBLISHED</b>	
<b>CITY PLAN</b>			

### REPRESENTATIONS/ CONSULTATIONS

Six letters of objection were received from Byres Road & Lanes Business Improvement District (BID), Friends of Glasgow West and from operators of local businesses. The grounds of objection are summarised as follows:

- The proposal will erode the retail character of Byres Road and undermine its vitality and viability as it will result in just 4 retail units in this block of 15 properties and is contrary to SG 4. Trading conditions on Byres Road, particularly in the southern part, are difficult. It is important there is a healthy mix of uses, underpinned by a strong retail offer, to overcome the challenges of online and out of town shopping.
- The proposal will seriously erode the retail offer in a key area of Byres Road. A balanced mix of uses, underpinned by a strong retail offer is needed to overcome the challenges of online and out of town shopping. Homogeneity is a challenge: a street with the same shops as others will fail to attract visitors. The application site is the type of unit likely to attract a 'one-off' independent unit.
- The assertion that an estate agent will increase footfall to the area is a fallacy.
- The previous Class 1 use closed as a result on the applicant seeking a rental increase. The shop has been marketed at an exaggeratedly high rent which would deter most small retail businesses. If the unit has failed to find a tenant during the marketing period, the rental sought is too high.
- 112 Byres Road changed to Class 2 from Class 1 last year. What will happen to that unit?

**SITE AND DESCRIPTION**

The application site is a ground floor shop in a 4-storey tenement on the east side of Byres Road between its junctions with University Avenue and University Place. It is in Partick/Byres Road Major Town Centre but not in a Retail Core Area. Surrounding uses are commercial and residential.

The shop is vacant and was last occupied by an art shop.

**PROPOSAL**

Planning permission is sought for use of shop (Class 1) as office (Class 2). No external alterations are proposed.

**PLANNING HISTORY**

Planning application 18/02163/FUL for use of retail unit (Class 1) as office (Class 2) was refused under delegated powers on 28 August 2018 for the following reasons:

01. The proposal was not considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's variance with the Development Plan.
02. For the reasons noted below, the proposed development is contrary to City Development Plan Policy CDP 4 Network of Centres and Supplementary Guidance SG 4 Network of Centres (Assessment Guideline 4: Proposed Non-Retail Uses in Major Town Centres).
03. The proposal would result in an unacceptable loss of a Class 1 retail unit in Partick/Byres Road Major Town Centre to the detriment of the retail character and retail function of the Town Centre.
04. The proposal does not demonstrate the property has been appropriately marketed for Class 1 shop use for a minimum period of 12 months prior to the submission of the non-class 1 proposal and that the marketing exercise was unsuccessful in attracting Class 1 operators.
05. The proposal would fail to maintain an appropriate balance and diversity of uses within the street block frontage and would thereby detract from the vitality and viability of the Town Centre.
06. The consideration of the Planning Authority is that despite the period of vacancy there is still a reasonable prospect of Class 1 use being resumed in the unit and an exception is not justified.

Certificate of Proposed Lawful application 09/02943/DC for use of shop as shop (Class 1) with ancillary coffee bar (14 seats) limited to hot and cold drinks and cold food with no cooking on the premises and opening hours of 1000 to 2100 seven days a week was found lawful under delegated powers on 22 October 2010 as the evidence submitted satisfied the Planning Authority that the proposal did not constitute a change of use.

**SPECIFIED MATTERS**

Planning legislation now requires the planning register to include information on the processing of each planning application (a Report of Handling) and identifies a range of information that must be included. This obligation is aimed at informing interested parties of factors that might have had a bearing on the processing of the application. Some of the required information relates to consultations and representations that have been received and is provided elsewhere in this Committee Report. The remainder of the information and a response to each of the points to be addressed is detailed below.

- A. Summary of the main issues raised where the following were submitted or carried out
  - i. An Environmental Statement.

Not applicable to this application.

- ii. An appropriate assessment under the Conservation (Natural Habitats etc.) Regulations 1994.

Not applicable to this application.

- iii. A Design Statement or a Design and Access Statement.

Not applicable to this application.

- iv. Any report on the impact or potential impact of the proposed development (for example the Retail Impact, Transport Impact, Noise Impact or Risk of Flooding).

Not applicable to this application.

- B. Summary of the terms of any Section 75 Planning Agreement

Not applicable to this application.

- C. Details of directions by Scottish Ministers under Regulation 30, 31 or 32

These Regulations enable Scottish Ministers to give directions.

- i. With regard to Environmental Impact Assessment Regulations (Regulation 30).

Not applicable to this application.

- ii. 1. Requiring the Council to give information as to the manner in which an application has been dealt with (Regulation 31).

No direction has been made by Scottish Ministers/Not applicable.

- 2. Restricting the grant of planning permission.

No direction has been made by Scottish Ministers/Not applicable.

## POLICIES

The City Development Plan consists of high level policies with statutory supplementary guidance providing further information or detail in respect of the policies. Policies CDP 1 and CDP 2 are overarching policies which must be considered for all development proposals. The following policies and supplementary guidance are considered particularly relevant to the application assessment:

CDP 1 The Placemaking Principle  
 CDP 2 Sustainable Spatial Strategy  
 CDP 4 Network of Centres  
 CDP 11 Sustainable Transport  
 SG 1 Placemaking  
 SG 4 Network of Centres  
 SG 11 Sustainable Transport

## ASSESSMENT AND CONCLUSIONS

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that where an application is made under the Planning Acts, it shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The main issues to be taken into account in the determination of this application are considered to be:-

- 1) whether the proposal accords with the Development Plan;
- 2) whether any other material considerations have been satisfactorily addressed.

## **DEVELOPMENT PLAN**

In respect of 1), the Development Plan comprises the Glasgow and Clyde Valley Strategic Development Plan 2017 and the Glasgow City Development Plan. There are no specific policies of relevance to the application proposal in the Strategic Development Plan.

### **CDP 1 The Placemaking Principle and SG 1 Placemaking**

Policy CDP 1 requires a holistic, design-led approach to development to achieve the City Development Plan's key aim of creating and maintaining a successful, high quality, healthy place.

IPG 1 Part 1 sets the context and approach to placemaking established in CDP 1. It notes that the City Development Plan seeks to move away from the traditional land use based approach of previous local plans: placemaking principles should inform all development. It identifies six qualities of place: character and identity, successful open space, legibility and safety, ease of movement, vibrancy and diversity, adaptability and sustainability which are supported by a series of placemaking principles to guide development proposals.

New development should not have an undue adverse impact on the amenity of adjacent land or property but should relate and respond to its surroundings. It should have a high quality contemporary design and sympathetic palette of materials. It should help to reinforce the legibility of local areas by responding to local features and characteristics and reflecting a clear understanding of neighbouring urban forms.

New development should be well connected, prioritise active travel and impact positively on quality of life. It should demonstrate the highest standards of sustainable design and construction and be able to respond and adapt positively to changing circumstances. Housing, leisure facilities and places to work and meet should be well-connected and form identifiable, walkable mixed neighbourhoods that provide a variety of experiences and opportunities.

SG 1 Part 2 provides detailed assessment criteria for development proposals.

**Comment:** The proposal is for use of a shop Class (1) as an office (Class 2). No external alterations are proposed. The proposed use is not considered to have an undue adverse impact on the amenity of adjacent land or property and would be in a well-connected location.

### **CDP 2 Sustainable Spatial Strategy**

Policy CDP 2 aims to influence the location and form of development to create a compact city form which supports sustainable development.

**Comment:** The proposal for a Class 2 office in an inner urban, town centre location with high accessibility to public transport is considered to be consistent with the 'compact city' aim of CDP 2, subject to meeting the requirements of other relevant policies and supplementary guidance.

### **Policy CDP 4 Network of Centres**

Policy CDP 4 applies a 'Town Centre First' approach where town centres are the preferred location, not just for retail uses, but for a range of uses including cultural and community facilities, leisure, entertainment, recreation, as well as homes and businesses. It favours proposals that support the retail function and/or improve the vitality

and viability of Major Town Centres. Proposals should be appropriate to the function of the Centre and the size of its catchment.

SG 4 Network of Centres, Assessment Guideline 4: Proposed Non-Retail Uses within Major Town Centres sets criteria for assessing the proposed change of use. It seeks to protect the retail character of Major Town Centres while maintaining a range of appropriate other uses. In particular, it seeks to protect the retail character of individual streets in those Centres with a traditional shopping street layout. It states:

*In all Major Town Centres (except Partick/Byres Road Retail Core Areas):*

*a) If the proportion of ground floor Class 1 shop units is more than 70%\*\* , an application for a change of use of ground floor units from Class 1 to non-Class 1 may be considered favourably where it can be demonstrated that the proposal will:*

- (i) Contribute positively to the character and appearance of the Town Centre and provide an active frontage;*
- (ii) Not have an unacceptable effect on Town Centre or residential amenity; and*
- (iii) In the traditional shopping streets of Major Town Centres, result in not more than 30%\*\* of the shop units within a street block frontage being in non-Class 1 use and not more than 3 adjacent non-Class 1 units within a street block. This provision does not apply to indoor mall shopping environments.*

*b) If the proportion of ground floor Class 1 shop units is less than 70%\*\* , further changes of use will not be supported unless it can be demonstrated that the proposal will satisfy a) above **and** will achieve at least **one** of the following:*

- (i) Deliver the re-use of long-term vacant units\*\*\*; and/or*
- (ii) Accord with relevant Spatial Supplementary Guidance.*

*c) It will not be necessary to satisfy the criteria within Sections a)(iii) and b) where there is a long-term pattern of vacant units within an individual street block.*

*d) The loss of an operating retail unit, where there are vacant units within a centre, will normally be resisted. Where a proposal forms part of a comprehensive redevelopment within a Town Centre, the Council will consider the loss of operational retail units in the context of the units' significance and as part of the overall redevelopment scheme*

*\*\* All calculations should include vacant units.*

*\*\*\* Long-term vacant units are those where the unit is unoccupied and an appropriate marketing exercise has been carried out over a minimum 12 month period (or 18 months if the unit is a significant Class 1 unit, such as a large supermarket or major department store) and has been unsuccessful in attracting Class 1 operators. The applicant will be expected to submit documentation to include details of floorspace, costs and length of lease offered to interested parties to ensure these factors are not unnecessarily acting as a deterrent to Class 1 use. This will remain confidential information. Temporary uses (open for less than 12 weeks and in accordance with the lawful use) will contribute towards the 12 month vacancy period, provided the marketing exercise is ongoing during that period.*

**Comment:** The August 2019 Town Centre Survey found in Partick & Byres Road Town Centre as a whole 55.1% of units in Class 1 use (46.1% operational, 2.5% vacant for 12 months or more and 2.8% more recently vacant). For Byres Road, the Survey found 55.5% of units in Class 1 use (47.7% operational, 3.2% vacant for 12 months or more and 4.5% more recently vacant).

Within the street block the existing uses are follows with 53.3% of units in non-Class 1 use:

Street No	Operator	Use	Use Class
146 Byres Road	Slater, Hogg & Howison	Estate agent	Class 2
142 Byres Road	Currie & Quirk	Optician	Class 1
138 Byres Road	Francoise Patisserie	Café/restaurant	Class 3
134 Byres Road	Kember & Jones	Café/restaurant	Class 3
132 Byres Road	Sushi	Café/restaurant	Class 3
126 Byres Road	888 Express	Oriental Grocer	Class 1

122 Byres Road	Bar Soba	Public House	Sui Generis
114 Byres Road	Vacant shop,	Vacant Shop	Class 1
112 Byres Road	Vacant shop	Vacant Shop	Class 1 but with Class 2 consent
108 Byres Road	Aberdein Considine	Estate agent	Class 2
106 Byres Road	George Mewes	Dairy	Class 1
104 Byres Road	Best One	Confectioner, Tobacconist, Newsagent	Class 1
100 Byres Road	Application site,	Vacant Shop	Class 1
98 Byres Road	Chow's	Cafe/Restaurant	Class 3
94 Byres Road	The Hill	Public House	Sui Generis

As indicated above, planning permission was granted on 15 November 2017 for use of the shop at 112 Byres Road as an estate agent (Class 2). The permission has not been implemented.

A review of the fourteen Town Centre Surveys from August 2009 found the number of vacant Class 1 units in the street block has varied between 0 and 3. The former was in December 2010 and the latter in August 2009, August 2018 and August 2019. The surveys found the application site vacant in August 2019 and August 2018 and earlier in December 2011 and June 2011.

The agent states the property has been actively marketed since it became vacant over 12 months ago and has submitted supporting evidence from the letting agent. This confirms details of rent level prior to the shop becoming vacant, the rent sought, floorspace, length and terms of lease offered and details of marketing undertaken, which has included marketing to national, regional and other operators, mail shots to other UK and Ireland agents, advertising on various website for commercial property marketing and a To Let Board on the shop.

The agent has advised that an offer was received from a charity shop in 2018 who negotiated and agreed a rental figure with initial rent free period but the prospective tenant pulled out due to overall occupation costs including business rates. Other expressions of interest have been from Class 3 operators. However, the prospective tenant for 112 Byres Road wishes to lease 100 Byres Road as it is a larger unit.

The proportion of non-Class uses in the Town Centre is well below 70%. However, it is considered that the application site is a long term vacant unit and that an appropriate marketing exercise has been carried out over a minimum 12 month period but has been unsuccessful in attracting Class 1 operators.

At 53.33%, the proportion of non-Class 1 units in the street block already exceeds 30% and the proposal will increase it to 60%, which is the proportion found in the Town Centre Surveys from September 2014 to August 2016. In comparison, the surveys from August 2009 to May 2014 found the proportion of non-Class 1 use in the street block was approximately 53.3% except for June 2010 when it was 60%. The difference between 60% and approx. 53.3% equates to one shop unit.

It is recognised that if the extant Class 2 permission for 112 Byres Road is implemented also the proportion of non-Class 1 units in the street block would rise to 66.7%. Notwithstanding the proportion of non-Class 1 units in the street block, due to the long term vacancy of the shop unit and evidence of active marketing, it is considered that the proposal will not detract from the viability of the town centre but, by securing the re-use of the vacant unit, will support its vitality.

Having regard to the long term vacancy of the application site, it is considered that the proposal will contribute positively to the character and appearance of the Town Centre, provide an active frontage and will not have an unacceptable effect on the Town Centre or on residential amenity. It will not result less in more than 3 adjacent non-Class 1 units.

In view of the above, the proposal is considered to be consistent with the aims of CDP 4 and SG 4.

### **CDP 11 and SG 11 Sustainable Transport**

In relation to CDP 11 and SG 11, parking would be on-street as existing. There is no land available within the application site to provide off-street parking. However, it is not anticipated that Class 2 use would generate significantly more demand for parking than Class 1 use and the application site is in a High Accessibility area for public transport.

In view of the above, the proposal is considered to be generally consistent with the placemaking and sustainability aims of CDP 1, SG 1 and CDP 2.

### **OTHER MATERIAL CONSIDERATIONS**

In respect of 2), other material considerations include the contents of the letters of objection. Grounds of objection in the letters of objection are summarised, with appropriate comment, as follows:

The proposal will erode the retail character of Byres Road and undermine its vitality and viability as it will result in just 4 retail units in this block of 15 properties and is contrary to SG 4. Trading conditions on Byres Road, particularly in the southern part, are difficult. It is important there is a healthy mix of uses, underpinned by a strong retail offer, to overcome the challenges of online and out of town shopping.

**Comment:** The concerns are noted but the application site is a long term vacant unit which has been appropriately marketed.

The proposal will seriously erode the retail offer in a key area of Byres Road. A balanced mix of uses, underpinned by a strong retail offer is needed to overcome the challenges of online and out of town shopping. Homogeneity is a challenge: a street with the same shops as others will fail to attract visitors. The application site is the type of unit likely to attract a 'one-off' independent unit.

**Comment:** The challenges to the Town Centre are recognised. However the shop is a long-term vacant unit which has failed to attract a Class 1 operator.

The assertion that an estate agent will increase footfall to the area is a fallacy. The estate agency industry has changed enormously, with most operations performed on-line and very few people attending an office. One property/letting business on Creswell Street has decided to close its doors.

**Comment:** It is accepted that increased use of online sales will have a negative impact on the generation of footfall just as the growth in online shopping has impacted on footfall for high street shops. Nevertheless the proposal will secure the re-use of a long term vacant shop.

The previous Class 1 use closed as a result on the applicant seeking a rental increase. The shop has been marketed at an exaggeratedly high rent which would deter most small retail businesses. If the unit has failed to find a tenant during the marketing period, the rental sought is too high.

**Comment:** There is no evidence to support this assertion. The agent has pointed out that the site is a secondary pitch compared to the main area of Byres Road and there is no benefit to an owner keeping a unit vacant as owners are now liable for rates on vacant properties. In this regard, Non Domestic Rates Guidance on the Council's website regarding empty property relief indicates that properties which are not industrial properties and are not classified as exempt receive a reduction of 50% of the Rates charge for the first 3 months that they are empty and a 10% reduction thereafter.

112 Byres Road changed to Class 2 from Class 1 last year. What will happen to that unit?

**Comment:** The applicant has 3 years from the date on the decision notice (15/11/17) to implement the Class 2 consent for 112 Byres Road. The effect if this is considered above.

### **CONCLUSION AND RECOMMENDATION**

The proposed use of shop (Class 1) as office (Class 2) is considered appropriate for the location and site context and, on balance, accords with overarching policies CPD 1 The Placemaking Principle and CPD 2 Sustainable Spatial Strategy and relevant supporting policies and supplementary guidance of the adopted Glasgow City Development Plan

Other material considerations including the letters of representation have been considered, but do not outweigh the Development Plan.

Accordingly, it is recommended that planning permission is granted, subject to the following conditions.

#### CONDITIONS AND REASONS

01. Before any work on the site is begun, details of refuse and recycling storage areas and bins shall be submitted to and approved in writing by the planning authority. These facilities shall be completed before the development/the relevant part of the development is occupied.

Reason: To ensure the proper disposal of waste and to safeguard the environment of the development.

02. Noise from or associated with the completed development (the building and fixed plant) shall not give rise to a noise level, assessed with windows open, within any dwelling or noise sensitive building in excess of that equivalent to Noise Rating Curve 35 between 0700 and 2200, and Noise Rating Curve 25 at all other times.

Reason: To protect the occupiers of dwellings or noise sensitive buildings from excessive noise.

#### REASONS() FOR GRANTING THIS APPLICATION

01. The proposal was considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's accordance with the Development Plan

#### ADVISORY NOTES TO APPLICANT

01. Any advertisement, other than that deemed within the terms of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, to be the subject of an application for express consent.

#### Approved Drawings

The development shall be implemented in accordance with the approved drawing(s):

01. Unnumbered Location Plan

As qualified by the above condition(s), or as otherwise agreed in writing with the Planning Authority

for Executive Director of Development and Regeneration Services

DC/ KRA/  
03/09/2019

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