

**PLANNING APPLICATIONS COMMITTEE**

Report by Executive Director of Regeneration and the Economy

Contact: Gerry Mimmagh Phone: 0141 287 8639

APPLICATION TYPE Full Planning Permission**RECOMMENDATION** Refuse

APPLICATION	19/02889/FUL	DATE VALID	20.09.2019
SITE ADDRESS	Site To The Rear Of 14 Langness Road Glasgow		
PROPOSAL	Use of existing pump house as hot food takeaway with frontage alterations and erection of flue.		
APPLICANT	Mr Mohammed Jawab 18 Langness Road Glasgow G33 3NT	AGENT	David Jarvie 27 Aytoun Road Pollokshields Glasgow G41 5HW
WARD NO(S)	18, East Centre	COMMUNITY COUNCIL LISTED	02_054, Cranhill
CONSERVATION AREA			
ADVERT TYPE	Bad Neighbour Development	PUBLISHED	4 October 2019
CITY PLAN	Residential		

REPRESENTATIONS/ CONSULTATIONS

Land And Environmental Services – Public Health - Object on grounds of impact on residential amenity as a result of cooking odours discharged at low level.

Eight letters of representation were received from members of the public, all of which supported the proposal.

The points raised are summarised below:

- Reuse derelict building
- Create jobs
- Regenerate locale area

BACKGROUND INFORMATION

The applicant previously submitted an application for Site to the Rear of 14 Langness Road, reference 19/02088/FUL, for Use of existing pump house as hot food takeaway with external alterations including new shopfront, erection of flue and installation of container to side for storage.

The reasons for refusal are as per below:

1. The proposal is contrary to Assessment Guideline 8 of SG 4: Network of Centres of the City Development Plan (adopted 2017) in that the proposed hot food takeaway would, as a Sui Generis use, be sited within and in close proximity of a building with residential properties. The proposal would, by nature of its low level cooking odour extraction method result in a loss of amenity to the residential properties.
2. The development proposal is contrary to Policy CDP1 (The Placemaking Principle) and associated SG1 Part 1 (The Placemaking Principle) of the City Development Plan (adopted 2017) the creation of a commercial activity to the rear of a residential tenement would be an incongruous feature to the detriment of the residential amenity of the existing building.

Following this refusal the applicant has revised the proposal to remove the containers located adjacent the pump house.

SITE AND DESCRIPTION

The application site is a disused pump house located to the east of the rear elevation of 4 storey post-war tenement block. The wider area contains the hardstanding of the now demolished St Elizabeth Seaton Primary school and is in some disrepair. At present this larger area which contained the demolished school building is within a gated area, within which the pump house is sited. The pump house itself is also in poor condition and is contained within a palisade fence. The access road to the pump house appears to be a gravel path which is significantly overgrown.

The applicant seeks consent for the Use of existing pump house as hot food takeaway with frontage alterations and erection of flue. The applicant has not supplied proposed hours of operation, however, the previously refused application proposed operating hours of 12noon till 11pm, 7 days. Deliveries shall be in the morning prior to opening after 10am.

POLICIES

City Development Plan Policies

CDP1 – The Placemaking Principle

CDP4 – Network of Centres

Supplementary Guidance Documents

SG1 – The Placemaking Principle

SG4 – Network of Centres

SPECIFIED MATTERS

Planning legislation 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 may have been received. 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**

None submitted.

- 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)**
None submitted.

- 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 to this application.
2. **restricting the grant of planning permission**
No direction has been made by Scottish Ministers/Not applicable to this application.
- iii.
1. **requiring the Council to consider imposing a condition specified by Scottish Ministers**
No direction has been made by Scottish Ministers/Not applicable to this application.
2. **requiring the Council not to grant planning permission without satisfying Scottish Ministers that the Council has considered to the condition and that it will either imposed or need not be imposed.**
No direction has been made by Scottish Ministers/Not applicable to this application.

ASSESSMENT AND CONCLUSIONS

ASSESSMENT

The Town and Country Planning (Scotland) Act 1997 (as amended) requires that planning applications shall be determined in accordance with the Development Plan unless material considerations dictate otherwise.

The two main issues to consider in the assessment of this application are:-

- (a) whether the proposal accords with the Development Plan; and
(b) whether any other material considerations have been satisfactorily addressed.

In respect of (a), the Development Plan comprises the Glasgow and Clyde Strategic Development Plan and the City Development Plan. There are no specific policies of relevance to the application proposal in the Strategic Development Plan. The following policies in the City Development Plan are considered relevant to the assessment of the application:

CDP 1: The Placemaking Principle & SG 1: Placemaking

The overarching aim of this policy is to improve the quality of development taking place in Glasgow. The City Development Plan states that this could be achieved in many ways including providing high quality amenity to existing and new residents in the City.

The proposal seeks the use of a derelict water pump house for a hot food takeaway with associated alterations to the elevations and the formation of a flue projecting 1m above the roof level.

Policy CDP 1 and SG1 – The Placemaking Principle is underpinned by a design-led approach to planning. This approach is not restricted to influencing the appearance of a building, street or place; rather it is a holistic approach that considers the area's context, and balances the range of interests and opportunities to create multiple interconnected benefits through a collaborative process. Placemaking involves understanding the elements that contribute to an area, considering what is currently successful and what is failing.

In order to be successful, new development should aspire to achieve the six qualities of place as defined in draft Scottish Planning Policy, and reinforced by Creating Places and Designing Streets.

- It is distinctive;
- It is safe and pleasant;
- It is easy to move around and beyond;
- It is welcoming;
- It is adaptable; and
- It is resource efficient.

Whilst it is noted that all of those principles may not be directly relevant in this case. There is an overriding concern that the change of use of the pump house to a hotfood takeaway is not one which would significantly improve the locale or sense of place within the area. The positioning of such a use to the rear of residential dwellings which is presently gated and surrounded by derelict land is incongruous. It's not considered that in terms of the 6 qualities of space to be a safe and pleasant proposal as it would be located away from a main street frontage to the rear of private back courts. The proposal does not offer a distinctive use of the existing pump house building rather a standard commercial conversion within an inappropriate setting, the applicant has detailed no improvements to the immediate surroundings of the pump house which are significantly over grown. In terms of being easy to move around it is considered that the introduction of a commercial use at this location would not be beneficial to the residential nature of the setting, the site itself being gated further illustrating this. Whilst it is noted that the proposal would see the adaptation of an existing building and therefore a reuse of existing resources, the use of the building for a hot food takeaway is considered not to be cognisant with the other qualities of place as detailed above.

Given the above policy assessment it is considered that the proposal would have a potentially significant negative impact on the amenity of the neighbouring residential properties through the effects of increased noise and activity. The proposal is therefore not considered to accord with the relevant criteria of policies CDP 1 and SPG 1.

CDP 4: Network of Centres & SG 4: Network of Centre

The impact on the residential amenity of the locale and the impact of the proposed use on place making is further illustrated in the assessment of the proposal against the criteria for Food, Drink and Entertainment Uses.

The application site is located outwith any town centre and therefore the main consideration are the Assessment Guidelines for Food Drink and Entertainment Uses as detailed below:

Assessment Guideline 10: Food, Drink and Entertainment Uses

In order to protect residential amenity, the following factors will be taken into consideration when assessing whether the location of proposed food, drink and entertainment uses is acceptable:

a) *City-Wide:*

(i) *Proposals for food, drink and entertainment uses must not result in a detrimental effect on the amenity of residents through the effects of increased noise, activity and/or cooking fumes. No more than 20%* of the number of units in a street block frontage, containing or adjacent to residential uses, should be in use as a hot food shop, public house, composite public house/Class 3 or composite hot food shop/Class 3 use.*

(ii) *Public houses, Class 11 and Sui Generis uses must not be located under new build residential development.*

(iii) *The Council will not support food, drink and entertainment uses (including extensions to existing uses or extensions of opening hours) in rear lanes that are immediately adjacent to residential properties, unless part of a comprehensive redevelopment of an existing rear lane or creation of a new rear lane, where it can be demonstrated that residential amenity will not be adversely affected.*

Comment: In respect of the City-Wide policy criteria (a)(i) The proposal use would have a detrimental effect on the amenity of residents through cooking fumes. This is confirmed by the objection from Public Health on the grounds that the low level discharge of flues downwind of the existing residential flats. The approval of the proposed use would see the venting of fumes directly at the rear elevation of the residential block particularly when the windows on that elevation are open.

Further criteria for assessment relevant to the proposal is detailed within part (c):

c) *Outwith the City Centre:*

(i) *Public houses, Class 11 and Sui Generis uses must not be located within, or immediately adjacent to, existing residential buildings.*

(ii) *Applications for extensions to existing public houses, Class 11 and Sui Generis uses must not increase the floorspace for public use under residential flats, or extend into residential backcourt areas.*

(iii) *Hours of operation will be agreed with the Planning Authority, based on local circumstances and the impact of the proposal on residential amenity, but shall not exceed 08:00 to 24:00 hours.*

Comment: In respect of criteria (c) (i) The proposed Sui Generis use would be located immediately adjacent to an existing residential building and would therefore be contrary to this criteria.

Technical Guidance

Assessment Guideline 12: Treatment and Disposal of Cooking/Heating Fumes

a) *Proposals for a food and drink use will only be considered favourably if suitable arrangements for the dispersal of fumes can be provided, to the complete satisfaction of the Council. The following information will be required:*

(i) *Plans to show all proposed cooking/heating equipment, with full details of the fume dispersal method. This information must be shown on both the Plan and the Elevation drawings;*

(ii) *Full specifications of the proposed ventilation system, including the design, size, location and finish;*

(iii) *A full maintenance schedule of the ventilation system to ensure its continued effectiveness; and*

(iv) *Prior to the installation of any system for the dispersal of cooking fumes or odours, a certificate from a member of the Building Engineering Services Association (BESA) shall be submitted confirming that the proposed fume/odour treatment method will operate to its full specification, when fitted at the application site. This requirement will be secured by a suspensive condition imposed on any relevant planning permission granted.*

b) *Dispersal of cooking/heating fumes should be by an externally mounted flue, erected on the rear or side elevation to a height sufficient to disperse fumes above any nearby property.*

c) *Where the Planning Authority accepts that an externally mounted high level flue cannot be provided (ie. due to physical or visual amenity constraints rather than ownership issues), an alternative ventilation system may be considered acceptable, subject to the Planning Authority being completely satisfied that the proposal complies with a) and the following additional criteria:*

(i) *Within Town Centres, where it can be demonstrated that there will be no unacceptable impact on the amenity of surrounding residential properties.*

(ii) Outwith Town Centres, where it can be demonstrated that there are no residential properties within close proximity to the proposal.

It is recommended that the applicant consults the guidance document published in 2005 by DEFRA: Guidance on Control of Odour and Noise from Commercial Kitchen Exhaust Systems with specific reference to Annexes B and C.

d) A suitably qualified engineer must undertake the design and installation of the ventilation system.

e) If the applicant cannot adequately address the Council's requirements in terms of ventilation, the Council may require to control the method of cooking through the use of conditions.

Comment: In respect of (a) and (b) the applicants have detailed a flue finishing 1m above the roofline of the pump house. Given that the building is single storey this would be considered a low level discharge. The premises is located immediately to the rear of a 4 storey tenement property. As part of the application process Public Health within the council were consulted, they considered that the proposed discharge of food odours below the height of the tenement building which is downwind of the prevailing wind would impact on the amenity of the existing residential dwellings.

Part (c) of the technical guidance outlines where the council may accept not having an externally mounted flue. This does not apply in this case as the only method proposed is an externally mounted flue. Further to this, were an no external flue proposed this would be unacceptable under the requirements of (c)(ii) which requires that no residential properties be within close proximity of the proposal which is not the case. Part (d) and (e) are not relevant in this case.

The proposed application fails to meet the requirements of the Assessment Guideline and Technical Guidance contained within CDP 4: Network of Centres & SG 4: Network of Centre and would adversely impact on the amenity of local residents and their enjoyment of their dwellings by nature of the proposed low level cooking odour discharge.

Material Considerations

In respect of (b), with regard to the letters of representation, the grounds may be summarised, with appropriate comment, as follows:

Letters of Representation

Seven letters of representation were received from members of the public, all of which supported the proposal. The points raised are summarised below:

- The proposal would benefit the local economy.

Comment: Whilst the proposal may see the introduction of a new business, this should not be on the basis that a loss of amenity to the residents living in proximity is accepted.

- The proposal would reuse a building.

Comment: The pump house is not a building of any stature within the locale and whilst its reuse could be welcome with an appropriate use, the proposal will represent a loss of amenity for local residents living in close proximity.

- The proposal would regenerate the locale area.

Comment: It is not clear that this use of the pump station would represent a regeneration of the local area. The approval of this may blight more comprehensive development of the wider site around the pumping house to the detriment of the local area.

CONCLUSIONS

The proposed use of existing pump house as hot food takeaway with frontage alterations and erection of flue is not considered to protect residential amenity as there would be an increase in noise and activity within close proximity to the private rear backcourts of residential dwellings. Further to this the proposed method for dispersal of cooking odours, located at low level and in close proximity to the rear elevations of residential dwellings, would significantly impact on the amenity of residents and their ability to enjoy their dwellings. The siting of a hot food takeaway in this location is incongruous, in that it is set away from any street frontage behind gates within a largely derelict area which would benefit from a wider redevelopment scheme which could be blighted by approval of this development. As a result the proposal was not considered to be in accordance with policies CDP1, SG1, CDP 4 and SG 4 of the Development Plan and there were no material considerations which outweighed the proposal's variance with the Development Plan.

REASONS FOR REFUSAL

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. The proposal is contrary to Assessment Guideline 8 of SG 4: Network of Centres of the City Development Plan (adopted 2017) in that the proposed hot food takeaway would, as a Sui Generis use, be sited in close proximity of a building with residential properties. The proposal would, by nature of its low level cooking odour extraction method result in a loss of amenity to the residential properties.
03. The development proposal is contrary to Policy CDP1 (The Placemaking Principle) and associated SG1 Part 1 (The Placemaking Principle) of the City Development Plan (adopted 2017) the creation of a commercial activity to the rear of a residential tenement would be an incongruous feature to the detriment of the residential amenity of the existing building.

for Executive Director of Development and Regeneration Services

DC/ GMH/
11/11/2019

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