



Planning Applications Committee

Report by
Executive Director of Neighbourhoods, Regeneration and Sustainability

Contact: Daniel Farmer Phone: 0141 287 8540

Application Type Full Planning Permission

Recommendation Grant Subject to Condition(s)

Application	22/00606/FUL	Date Valid	07.04.2022
Site Address	19 Nithsdale Street Glasgow G41 2PZ		
Proposal	Use of retail unit (class 1) as cafe (class 3) with external seating (retrospective)		
Applicant	Strathbungo Coffee And Dessert Bar 19 Nithsdale Street GLASGOW G41 2PZ	Agent	David Jarvie 27 Aytoun Road GLASGOW G41 5HW
Ward No(s)	06, Pollokshields	Community Council	02_096, Shawlands & Strathbungo
Conservation Area		Listed	N/A
Advert Type	Bad Neighbour Development	Published	15 April 2022
City Plan			

Representations/Consultations

11 objections, including one objection from Shawlands and Strathbungo Community Council, were made with regards to the proposal. The material considerations made in the objections are assessed below.

Material Considerations

The following issues were raised by in representations (and late representations) and have been considered as part of the assessment. Comments are provided below.

Unsuitable site for Class 3 Use in a residential area

Comment: Whilst it is accepted that the proposed site is situated out with the town centre boundary, the site is already situated within a block of commercial buildings with no residential properties immediately above. Given the site is in proximity to the town centre where there are a variety of existing mixed-uses, including those open to late hours, the proposal is deemed to be in a suitable location where there are a variety of mixed uses.

Proposal contravenes SG4: Assessment Guideline 11 as more than 20% of the block would be of Class 3 or Sui Generis use

Comment: The proposal will convert a current Class 1 premises. As the premises is located out with the town centre, the above policy is not applicable to the application.

Proposal does not provide adequate cycle and disabled parking provision

Comment: The proposal retains ample spaces within a shared parking area with other retail and commercial uses. Given the proximity of on-site parking to the front door of the property, there is reasonable scope to provide disabled parking spaces. With regards to cycle parking, a condition has been attached to the recommendation requesting details of cycling provision.

The opening hours are not in compliance for Class 3 uses out with a town centre

Comment: It is acknowledged that the premises will be open until late hours, however, the operational hours are in line with those set out in Assessment Guideline 10 of SG 4. Given the proximity of the local town centre to the site, the hours of operation are characteristic to similar businesses nearby and will not exacerbate noise and activity issues in the immediate area.

The bin store location is not at a discrete or internal site

Comment: The recommendation includes a condition for details of waste management.

The development will increase noise in the area

Comment: It is anticipated that there will be an increase in noise, however, this is not expected to be detrimental. A condition has been applied to mitigate the impact of noise increase on surrounding residential properties.

Design of external alterations

Comment: The proposed external alterations to the front of the property will be in keeping with the commercial design of the overall building and an upgrade on the existing state. A further advertisement consent application will be sought for any new signage. Furthermore, all external alterations made to the property during unauthorised works are not assessed under this application and may be required to be removed/re-instated to the original state.

Outdoor seating

Comments regarding the external seating area were acknowledged and the applicant has removed the external seating component of the application.

Site and Description

The application seeks full planning permission for the use of retail unit (class 1) as cafe (class 3) with external seating. The application is submitted retrospectively, with the works implemented on 24/05/2019 for use of the property as a class 3 business. Planning Enforcement complaints were subsequently received, and an application submitted in response to contact from a Planning Enforcement Officer. The application site is 410 square metres and is currently vacant after the cessation of the unauthorised class 3 use.

The site lies within the eastern-most of commercial units which is accessed directly south off Nithsdale Road. The site is accessible for both pedestrians and vehicles, with the wider site providing off-street parking. The site is bounded by Nithsdale Street to the north, Nithsdale Street to the south and Pollokshaws Road to the west. The site is in proximity to the Strathbungo Conservation Area, though does not fall within it. The site is bounded immediately to commercial and retail units to the west predominantly residential properties across the street. The area itself is located marginally out with the local town centre of Strathbungo which is characterised by a mix of uses, with residential properties, small scale retail and leisure uses.

The application seeks full planning permission for the use of retail unit (class 1) as cafe (class 3). The class 3 use will be primarily used as a café/dessert parlour providing seating for customers internally. The operational hours proposed are as follows: -

Sunday - Thursday: 12pm -10pm
Friday – Saturday: 12pm – 11pm

The initial submission included external seating to the front of the property, however this has since been removed as part of the application. The proposal has now been assessed under a direct change of use with external works to the front of the property also included. Works which have not been acknowledged as part of the application will be requested to be removed/re-instated to previous existing state.

SITE HISTORY

19/03700/FUL - Use of premises as shisha cafe/ restaurant (Sui Generis), erection of 3no flues and associated works (retrospective) – REFUSED (November 2020)

21/02665/FUL - Use of retail unit (class 1) to cafe (class 3) (retrospective) – WITHDRAWN

Background Information

The application site has previously been subject to enforcement action for the unauthorised change of use from a class 1 unit to shisha café (sui generis). The use of the building has now ceased and is currently classed as a vacant class 1 retail unit. As such, the “retrospective” element of the previous description has been removed and the application is assessed as a standalone proposed change of use submission.

The recent withdrawn application above was withdrawn due to concerns over cooking methods. The new submission has removed all elements of open cooking and has restricted cooking methods to limit the impact of any change of use on nearby residents.

Policies

CDP 1: The Placemaking Principle & SG 1 Placemaking

CDP 2: Sustainable Spatial Strategy

CDP 4: Network of Centres

CDP 11: Sustainable Transport

SG1: The Placemaking Principle Part 2

SG4: Network of Centres

SG11: Sustainable Transport

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

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

Not applicable

iii. a design statement or a design and access statement

Not applicable

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

B. Summary of the terms of any Section 75 planning agreement

Not applicable

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

ii.

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

Not applicable

2. restricting the grant of planning permission

Not applicable

iii.

1. requiring the Council to consider imposing a condition specified by Scottish Ministers

Not applicable

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.

Not applicable

Assessment and Conclusions

Section 25 of the Town and Country Planning (Scotland) Act 1997 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 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 Clydeplan Strategic Development Plan and, as of 29 March 2017, the Glasgow City Development Plan (CDP). There are no specific policies of relevance to the application proposal in the Strategic Development Plan.

The Glasgow City Development Plan consists of high-level policies (in line with Scottish Government guidance), with statutory Supplementary Guidance providing further information or detail in respect of these policies. Some Supplementary Guidance is currently still under preparation and these items are considered as Interim Policy Guidance. The following policies are considered particularly relevant to the application assessment:

Glasgow City Development Plan 2017

Policy CDP 1: The Placemaking Principle

Policy CDP 1 is an overarching policy which is considered for all development proposals to help achieve the key aims of the City Development Plan. CDP 1 states:

new development should aspire towards the highest standards of design while providing high quality amenity to existing and new residents in the City.

Case Officer Comment: The proposal seeks to alter the frontage of the property by incorporating 7no. partly glazed sliding doors and one set of partly glazed double doors to the centre of the front elevation. No other alterations are proposed as a result of the proposal. Objections have been raised regarding the proposal's disregard for previous unauthorised external works. The Local Authority will ensure that all works undertaken that are not part of the current proposal are removed or made good to the previous existing state.

The proposed change of use is considered to be acceptable, with the premises being restricted on operational hours and cooking methods. This is to ensure the proposal will not have a detrimental impact on the residential amenity of adjacent neighbouring properties. Furthermore, the external seating proposed on the initial submission has been removed in order to maintain the levels of privacy and residential amenity within the current area. In light of above, the proposed development is considered to meet an acceptable standard of design and does not have a significant adverse impact on the existing and new residents of the city. Therefore, the proposal is in compliance with CDP 1.

Policy CDP2: Sustainable Spatial Strategy

The site is located out with the Strathbungo local Town Centre. However, the site is situated within detached commercial units which sit immediately behind the town centre. Given the site's location is only marginally out of the town centre boundary and the use of the existing, adjoining buildings are commercial, it is considered that the change of use would not have a significant impact on the residential amenity of nearby residential properties. Furthermore, the change of use would likely support the generation of footfall within the nearby town centre. The proposal is therefore acceptable in regard to the Sustainable Spatial Strategy and CDP 2.

Policy CDP4 and SG4: Network of Centres

Policy CDP 4: Network of Centres advises that the local authority favours proposals that support the function of each Local Town Centre by maintaining an appropriate balance of uses, as outlined in the related Supplementary Guidance.

Supplementary Guidance 4 (SG4) notes that in addition to their primary shopping function, the accessibility of Local Town Centres makes them appropriate locations for a range of other uses that provide a service to the public, including professional services (e.g. banks and estate agents), community uses (e.g. health centres and post offices) and leisure and entertainment uses (e.g. gyms, restaurants and public houses). These other uses provide additional reasons to visit and help to generate activity at different times of the day. However, it is important that their introduction does not undermine the shopping function or overall health of the Centre.

Therefore, SG 4 seeks to enhance the vitality and viability of Local Town Centres by reducing vacancy and supporting an appropriate balance and diversity of uses whilst protecting retail activity both within the Centre and individual street blocks. Assessment Guideline 10: Food, Drink and Entertainment Uses sets out the criteria for change of use to Class 3 premises in both a city-wide and local centre context.

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.

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. Note: A Late Hours Catering Licence will also be required for any premises serving food, on or off the premises, after 23:00 hours. This Licence will not generally be granted beyond 24:00 hours if the premises are in a building with residents living above.*

SG 4 notes that composite or hybrid uses incorporate significant elements of more than one use, for example Class 3/Public House or Class 1/Class 3. As such, they are regarded as 'sui generis' uses.

Case Officer Comment:

The application site is not situated within a defined town centre area. The site is located on the south of Nithsdale Street, to the west of Pollokshaws Road and is located south of March Street. The site is not under residential flats, but the street block includes residential flats directly to the north, east and south.

The proposal is for a change of use to a Class 3 restaurant, and not a hot food shop, public house, composite public house/Class 3 or composite hot food shop/Class 3 use. The site is not situated within a rear lane. Therefore, Criterion a) i) – iii) are not applicable.

The proposal seeks to change a retail unit to a Class 3 restaurant, criterion c) i) and ii) are therefore not relevant to this application. The applicant has sought hours of operation from 12pm – 10pm, Sunday to Thursday, and 12pm – 11pm Friday and Saturday, which is within the range stated in criteria iii). The application property is not located within the town centre, however, given the context of the site being set back from residential properties to the north, as well as the proximity to the mixed used town centre of Strathbungo, it is considered that the operational hours are appropriate within the context of the site.

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

Case Officer Comment:

The applicant has confirmed through the submission of a supporting statement that there will be limited cooking happening within the unit itself. The goods served by the restaurant will not be of a kind to warrant detailed extraction/ventilation methods. Furthermore, the application will be conditioned to ensure that limited cooking is carried out on the premises and that no ventilation/extraction systems will be approved within the premises. In light of above, the proposal is in compliance with the above policy.

Assessment Guideline 13: Parking and Servicing Requirements

Parking and servicing requirements associated with proposed food, drink and entertainment uses must comply with Section B of SG 11 Sustainable Transport and must not result in parking and/or traffic congestion.

This is considered below under Supplementary Guidance 11: Sustainable Transport.

Assessment Guideline 14: Waste Management and Disposal

Proposals for food, drink and entertainment uses will only be considered favourably if suitable arrangements for the management and disposal of waste (including recyclables) can be provided, to the complete satisfaction of the Council. Plans to show details of on-site waste storage facilities will be required.

Case Officer Comment:

With respect to consideration of the siting of the waste/refuse, the applicant has proposed to install a bin storage area within the carpark to the front of the existing building. Generally, there would be a preference for the any bin store to be sited to the rear or side of the existing building. However, acknowledging the arrangement of the site, there is no suitable location to enable this.

As part of recommended approval, a condition is attached for the applicant to provide a management plan for waste and recycling as it is anticipated that a high frequency of pickups will be required to ensure there are no amenity issues. Whilst the application is not in total accordance with the assessment guideline above, this is considered the most reasonable location for waste/refuse storage within the context of the site.

CDP 11 and SG 11: Sustainable Transport

To encourage the use of non-car transport modes, SG 11 sets maximum car parking standards for certain types of development, including retail, leisure and commercial uses. This supports the City Development Plan's Strategy to encourage greater use of sustainable transport modes, discouraging commuting by car and reducing congestion, pollution and greenhouse gas emissions.

Cycle parking standards are set as a minimum, with 1 space required per 50m² of public floor area for customers, and 1 space per 10 staff.

Case Officer Comment:

As the site is in an area with high accessibility to public transport and has dedicated off-street parking, it is considered the development has an over-provision of car parking. Therefore, the traffic generated by the proposed development would not have a significant impact on traffic congestion, road safety or parking and including delivery vehicles can be accommodated by the local road network.

With regards to cycle parking provision, no provision is proposed as part of this application, nor has any justification for the forgoing of cycle parking provision been submitted. A condition requiring cycle parking details is therefore attached to the application.

The proposal is in compliance with CDP 11 and SG11 in this regard.

Conditions and Reasons

1. The use of the café (Class 3) shall be restricted to the following days and hours of operation:
11:00 to 22:00 Sunday to Thursday and 11:00 to 23:00 Friday to Saturday.

Reason: To protect local residents from exposure to noise and disturbance at unsocial hours.

2. The only method of heating food employed in the premises shall be a microwave oven or other sealed unit (as indicated in the application). No other form of cooking and/or heating of foodstuffs shall be utilised within the premises.

Reason: To protect local residents from nuisance resulting from the disposal of cooking odours.

3. 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.

4. Noise from or associated with the completed development (the building and fixed plant) shall not give rise to a noise level, assessed with windows closed, 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.

5. Full details of the colour scheme and material of the proposed windows, doors and external alterations shall be submitted for the written approval of the planning authority.

Reason: To enable the Planning Authority to consider this/these aspect(s) in detail.

6. Cycle parking in keeping with the requirements of CDP11 and SG11: Sustainable Transport shall be installed onsite.

Reason: To ensure that cycle parking is available for the occupiers/users of the development.

7. Deliveries shall occur no earlier than 9am.

Reason: To protect local residents from exposure to noise at unsocial hours.

Advisory Notes to Applicant

1. Any proposed physical alterations to the frontage of the property should be made the subject of a separate application for planning permission.
2. The applicant is advised that this permission is for a Class 3 use which comprises the use of the premises for the sale of food or drink for consumption on the premises only. The applicant should contact the planning authority for advice if any sale of hot food for consumption off the premises is considered.
3. Construction and/or demolition work associated with this development should conform to the recommendations/standards laid down in BS5228 Part 1: 1997 "Noise and Vibration Control on Construction and Open Sites". Best Practicable Means as defined in Section 72 of the Control of Pollution Act 1974 should be employed at all times to ensure noise levels are kept to a minimum.
4. In order to protect local residents' amenity, noise associated with construction and demolition works in residential areas should not occur before 0800 or after 1900 Monday to Friday, and not before 0800 or after 1300 on Saturdays. Noise from construction or demolition works should be inaudible at the site's perimeter on Sundays and public holidays. The planning authority should be notified of necessary works likely to create noise outwith these hours.
5. Commercial waste from the premises requires to be disposed of in accordance with the Duty of Care requirement under section 34 of the Environmental Protection Act 1990. Waste transfer notes require to be obtained for the disposal of such waste and retained for a period of two years.
6. Premises used for the purposes of a food business require to register under the Food Premises (Registration) Regulations 1991. An application form for registration of the premises or change

of details of an existing registration can be obtained from Land and Environmental Services (Environmental Health).

Advisory Notes to Council

for Chief Executive, Glasgow City Council

DC/ DFA/30/08/2022

BACKGROUND PAPERS

PLEASE NOTE THE FOLLOWING:

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