



Glasgow City Council

Planning Local Review Committee

Report by Executive Director of Neighbourhoods, Regeneration
and Sustainability

Item 1

18th January 2022

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**21/00075/LOCAL – Use of bank (Class 2) as restaurant (Class 3) with
takeaway facility (Sui Generis) and erection of flue to rear at 424 Duke Street.**

Purpose of Report:

To provide the Committee with a summary of the relevant considerations in the
above review.

Ward No(s): 9

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1 LOCATION AND DEVELOPMENT PLAN DESIGNATIONS

- 1.1 The site consists of a ground floor and basement bank within a 4-storey tenement block on the corner of Whitevale Street and Duke Street. Access is from Duke Street and the properties above are in residential use.
- 1.2 It is within Duke Street Local Town Centre and has high accessibility by public transport.

2 DEVELOPMENT PLAN POLICIES

- 2.1 The relevant City Development Plan policies and Supplementary Guidance are:

CDP1 The Placemaking Principle
CDP2 Sustainable Spatial Strategy
CDP4 Network of Centres
CDP11 Sustainable Transport

SG1 Placemaking
SG4 Network of Centres
SG11 Sustainable Transport

3 REASONS FOR REFUSAL / RELEVANT CONDITION(S)

- 3.1 The reasons for refusal are listed below:

01. The proposed is contrary to Policy SG 4 Network of Centres of the adopted City Development Plan (2017) as detailed below and there are no material considerations in this instance that would justify a departure from the development plan.

02. The proposal is contrary to Assessment Guideline 10 of SG 4: Network of Centres of the City Development Plan (adopted 2017) in that the proposal would result in more than 20% of the units in a street block being in use for food, drink and entertainment uses. The proposal would therefore result in an increase in noise, activity and cooking fumes and would unacceptably impact on the residential amenity of neighbouring properties.

03. The proposal is contrary to Assessment Guideline 10 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 a residential building. The proposal would therefore result in an increase in noise, activity and cooking fumes and would unacceptably impact on the residential amenity of neighbouring properties.

4 APPEAL STATEMENT

- 4.1 A summary of the material points raised in the appeal statement is given below:

- The proposal fully complies with the Local Development Plan and Supplementary Guidance 4.
- The proposal will ensure the balance between retail and non-retail uses is maintained
- The proposal will reduce vacancy levels and will ensure a permanent use for this prominent corner unit.
- The proposal will support local investment and maintain Duke Street Local Centre as a desirable place to visit.
- The proposal is for Class 3 use with an ancillary takeaway and is not a Sui Generis use.
- The application received one objection on the grounds of car parking which was dismissed given the site has high accessibility, therefore the proposals would not have an unacceptable impact on parking in the local area.
- The site has been vacant since February 2021 and has been marketed since then with no serious Class 1 interest despite being marketed directly to retailers and via a national marketing campaign through well known marketing websites. The only interest was for a Class 2 betting office, but there has been significant local objection and the proposal is unlikely to progress.

5 REPRESENTATIONS AND CONSULTATIONS

- 5.1 There was 1 representation to the application, objecting to the proposal on the grounds that it would create noise and problems with access to parking for residents.
- 5.2 There were no consultation responses.

6 COMMITTEE CONSIDERATIONS

- 6.1 The key issues for Committee to consider are:

SG1 part 2 Placemaking

Alterations to Shops and Other Commercial Buildings

Proposals should respect the period, style and architectural character of the building and should not adversely affect residential amenity as a result of noise, vibration, etc.

Chiller/Air Conditioning Units/Flues

Flues should be located out of sight of public view, units should be located to minimise noise and vibration and generally be located away from residential windows.

- The proposed flue will be installed on anti-vibration brackets on the rear elevation, approximately 0.6m from the residential windows.

- Committee should consider whether the proposed flue will have a negative impact on the amenity of residents in the upper floors of the building.

Waste Storage, Recycling and Collection

All new developments must include appropriate and well-designed provision for waste storage, recycling and collection. This should be located discreetly so as not to have an adverse visual impact or cause traffic/noise nuisance to neighbours.

- A refuse and recycling store is shown on the ground floor which will have no visual impact
 - it is indicated that waste will be placed on street for collection at the appointed time.
- Committee should consider whether the presentation of waste for collection from the street will have a visual impact and/or cause traffic/noise nuisance.

SG4 Network of Centres

Food, Drink and Entertainment Uses

The Council seeks to strike a balance between the encouragement of uses that make the City more vibrant, and the need to preserve a reasonable level of amenity for adjoining occupiers, particularly neighbouring residents. Uses are considered to be ancillary to the primary use where they account for less than 20% of gross floor area (including outdoor seating areas but excluding back of house areas), whereas composite uses comprise elements of 2 or more uses and therefore regarded as sui generis.

- The gross floor area of the proposal is approximately 235sqm. The planning statement states that a small area will be set aside for people waiting to be seated in the restaurant and to pick up takeaways, although the exact area is not clear.

Assessment Guideline 10: Food, Drink and Entertainment Uses

Proposals should be acceptably located to protect residential amenity.

No more than 20% of the number of units in a street block frontage containing residential uses should be in use as a composite hot food shop/Class 3 use.

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

Hours of operation will be agreed based on local circumstances and impact on residential amenity, but should not exceed 08:00 to 24:00 hours.

- The most recent town centre survey shows 7 units in the street block, of which 2 are currently in use as a hot food takeaway and public house

(28.5% of units). If granted, this proposal would take this to 43% of the units.

- The upper floors of the block are in residential use.
 - The proposed hours of operation are 10am to 11pm Sunday to Thursday and 10am to midnight Friday and Saturday.
- Committee should consider whether the takeaway element of the proposal can be considered ancillary, or whether it represents a composite Class 3/Sui Generis use. If it is considered to be a composite use, it should be considered whether there are material considerations that would allow the increase in number of units in food, drink and entertainment use and the location of a sui generis use below residential units against the guidance set out.
- Committee should consider whether the proposed hours of operation will have an impact on residential amenity and whether they are acceptable at this location.

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

- Plans showing all proposed cooking/heating equipment with full details of the fume dispersal method.
- Full specification of the proposed ventilation system, including the design, size, location and finish, should be provided.
- A full maintenance schedule of the ventilation system should be provided to ensure its continued effectiveness

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

- It is proposed to disperse fumes via a new flue erected on the rear elevation which will terminate 1m above the eaves.
 - Plans show the cooking equipment with details of the fume dispersal method
 - Full specification of the ventilation system and maintenance details are provided.
- Committee should consider whether they are satisfied that the information provided regarding the proposed ventilation system demonstrates that it is suitable.

Assessment Guideline 13: Parking and Servicing Requirements

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

For restaurants in areas of high accessibility a maximum of 2 spaces should be provided per 100sqm of public floor area.

- The public floor area of the proposal is approximately 86sqm, therefore no extra vehicle parking spaces are required.
- Committee should consider whether the proposal will result in parking and/or traffic congestion.

Assessment Guideline 14: Waste Management and Disposal

Proposals should include suitable arrangements for the management and disposal of waste, including recyclables. Plans are required to show details of on-site waste storage.

- Plans show a refuse and recycling store on the ground floor and it is indicated that waste will be collected from the street at specified times.
- Committee should consider whether the proposed waste management and disposal arrangements are suitable.

SG11 Sustainable Transport

Cycle Parking

Minimum standards are set out to ensure safe and secure parking at the destination of those wishing to undertake journeys by cycle. Cycle parking should differential between parking for employees and visitors. Visitor parking should be should be at or near the main entrance to a building. Staff parking should be secure, generally within the building or a secure compound, or where this is not possible, close to areas of high activity such as main entrances to provide security through passive surveillance.

Restaurants should provide a minimum of 1 space per 50sqm of public floor area plus 1 space per 10 staff.

- The proposal includes a public floor area of approximately 86sqm, therefore a minimum of 1 space for customers should be provided.
- The number of staff is not indicated.
- There are 2 Sheffield racks, with capacity for 4 cycles, on the pavement opposite the proposal site.
- Committee should consider whether there is sufficient cycle parking provision to facilitate the proposal.

7 COMMITTEE DECISION

6.1 The options available to the Committee are:

- a. Grant planning permission, with or without conditions (see over for draft conditions); or
- b. Refuse planning permission.

DRAFT CONDITIONS

01. 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

02. Acoustic/amplified music from the premises 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.

03. Disposal of Cooking Odours/Fumes

(a) All cooking smells, noxious fumes or vapours from the premises shall be disposed of by means of a duct carried up the rear elevation and terminating at a point 1 metre above the eaves. The duct shall be free from any obstruction such as a plate, cowl, cap or any other deflection at its termination point.

(b) A ventilation and filtration system incorporating at least the following elements shall be installed and operational before the use commences. The elements to be included are:

- (i) Canopies - A canopy (or canopies) shall be located above all cooking appliances.
- (ii) Air Flow - The canopy face velocity shall be not less than 0.5 m/s.
- (iii) Primary Grease Filtration - Labyrinth (baffle) grease filters shall be installed within the canopy or canopies.
- (iv) Air Input – An air input system shall be provided by means of a pleated inlet filter, supplying clean filtered air equivalent to at least 80% 'make-up' of the extracted air.

(c) A maintenance/management scheme for the ventilation and filtration system, including all aspects referred to in (a) and (b) above shall be submitted to and approved in writing by the planning authority before the use commences and shall be implemented as approved for the duration of the use.

(d) Mechanical and electrical installations shall be arranged to ensure that the ventilation system is in operation during periods when the premises are open for the preparation and/or cooking of food.

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

04. 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.

05. The use of the premises shall be restricted to the following days and hours of operation:

10:00 to 23:00 Sunday to Thursday
10:00 to midnight Friday and Saturday

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

Advisory Notes

01. Before the ventilation system for the disposal and treatment of cooking odours from the premises is installed, the applicant should submit certification from a member of the Heating and Ventilating Contractor's Association, or other suitably qualified person, to the planning authority, confirming that the proposed system will satisfy the requirements of sections (a) and (b) of the condition relating to the disposal of cooking odours/fumes.

02. Before the use commences, the applicant should, following the testing of the installed ventilation system, submit certification from a member of the Heating and Ventilating Contractor's Association, or other suitably qualified person, to the planning authority, confirming that the installation meets its design specification.