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REPORT OF HANDLING FOR APPLICATION 21/00981/FUL

Item 5

7th December 2021

ADDRESS:	197 Springburn Way Glasgow G21 1DU
PROPOSAL:	Use of vacant retail unit (Class 1) as hot food takeaway (Sui Genris), includes erection of flue
DATE OF ADVERT:	Fri 16 Apr 2021
NO OF REPRESENTATIONS AND SUMMARY OF ISSUES RAISED	<p>3 representations have been received one of which contained a petition.</p> <p>One representation was in support of the proposal stating it helped bring jobs to the area.</p> <p>The other two (including the petition) were objections to the proposal. The objections raised concerns over over-provision of takeaways in the locality and its impact on nearby residential properties in terms of noise nuisance, traffic, litter and odour nuisance.</p>
PARTIES CONSULTED AND RESPONSES	N/A
PRE-APPLICATION COMMENTS	No pre-application discussions with assessing officer.
EIA - MAIN ISSUES	N/A
CONSERVATION (NATURAL HABITATS ETC) REGS 1994 – MAIN ISSUES	N/A
DESIGN OR DESIGN/ACCESS STATEMENT – MAIN ISSUES	N/A
IMPACT/POTENTIAL IMPACT STATEMENTS – MAIN ISSUES	N/A
S75 AGREEMENT SUMMARY	N/A
DETAILS OF DIRECTION UNDER REGS 30/31/32	N/A
STRUCTURE PLAN POLICIES	N/A
CITY DEVELOPMENT PLAN POLICIES	<p>CDP1 & SG1: The Placemaking Principle</p> <p>CDP2 Sustainable Spatial Strategy</p> <p>CDP4 & SG4: Network of Centres</p>
OTHER MATERIAL CONSIDERATIONS	NONE
REASON FOR DECISION	<p>Reason to Refuse - does not meet DP</p> <p>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.</p>

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	COMMENTS
PLANNING HISTORY	<ul style="list-style-type: none"> • 20/02289/FUL – Use of retail unit (Class 1) as hot-food takeaway (Sui Genris) and erection of flue – REFUSED LOCAL REVIEW REQUESTED
SITE VISITS (DATES)	Due to current Covid 19 Pandemic a site visit was not possible however desk based research is considered to be sufficient in the determination of this application.
SITING	The application site is a vacant shop unit located on the north side of Springburn Way within a designated Local Town Centre as per the City Development Plan. The unit is single storey and forms part of a wider parade on the west side of Springburn Way containing 21 units.
DESIGN AND MATERIALS	The external physical alterations detailed within the plans are limited and consist of a flue pipe to the rear extending from the roof line and new lighting at the front. Signage is displayed, however, this would be subject to a separate advertisement application and not subject to this assessment.
DAYLIGHT	N/A
ASPECT	South facing.
PRIVACY	No impact.
ADJACENT LEVELS	Flat.
LANDSCAPING (INCLUDING GARDEN GROUND)	N/A
ACCESS AND PARKING	There is ample on street parking, it is considered unlikely that the proposed use would significantly impact on parking provision.
ASSESSMENT & RECOMMENDATION	<p>An original application was submitted as in 2020 for the change of use from a retail unit (Class 1) to a takeaway (Sui Generis). This application was refused and is currently awaiting a date for local review.</p> <p>This resubmitted proposal is identical to the previously refused application (20/02289/FUL) with the exception of a higher proposed flue, as such the resubmission does not address any of the refusal reasons of planning application 20/02289/FUL. The assessment and conclusion will remain as the previous application.</p> <p>Assessment</p> <p>Sections 25 and 37 of the Town and Country Planning (Scotland) Acts require that when an application is made, it shall be determined in accordance with the Development Plan unless material considerations dictate otherwise.</p> <p>The issues to be taken into account in the determination of this application are therefore considered to be:</p> <p>a) whether the proposal accords with the statutory Development Plan;</p> <p>b) whether any other material considerations (including objections) have been satisfactorily addressed.</p> <p>In respect of (a), the Development Plan comprises the Clydeplan Strategic Development Plan, approved in July 2017 and the Glasgow City Development Plan adopted on the 29th March 2017.</p> <p>The works require to be assessed the against the relevant policies of the City Development Plan. In this case CDP1 SG1: The Placemaking Principle, CDP 2 Sustainable Spatial Strategy and CDP4 SG4: Network of Centres.</p> <p>In relation to CDP 1/SG1 The Placemaking Principle, the policy seeks to ensure that proposals are commensurate with their setting. As part of an area designated as a town centre a hotfood takeaway would be a relatively common use and therefore could be commensurate with the surrounding area. However, this is subject to meeting the other aims of the City Development Plan.</p>

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In relation to CDP2 The Glasgow City Development Plan identifies priority areas where a strategic approach is needed to co-ordinate development activity, direct investment and address emerging opportunities. There is no specific SDF or LDF relevant to this proposal. Generally this policy aims to influence the location and form of development to create a 'compact city' form which supports sustainable development. It will also help to ensure that the City is well-positioned to meet the challenges of a changing climate and economy, and to build a resilient physical and social environment which helps attract and retain investment and promotes an improved quality of life.

Given the location of the use adding to a proliferation of hot food takeaways and other non-retail uses in proximity to an adjacent residential site to the north it is considered that this proposal would not promote an improved quality of life.

Specific locational guidance for hotfood takeaway and criteria for assessment of non-class 1 uses in town centres is contained within **CDP4 SG4: Network of Centres**.

Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres

In assessing proposals within Local Town Centres, the Council will seek to maintain a sustainable level of retail within each Centre, whilst also supporting other appropriate uses in order to enhance the vitality of these Centres.

a) If the proportion of ground floor Class 1 shop units is more than 70%, applications for change of use 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; **and**
- (ii) Not have an unacceptable effect on town centre or residential amenity.

Comment: The proportion of Class 1 units as per the most recent retail survey 08/20 has the number of Class 1 units at less than 70% at 62.7% and therefore the above criteria does not apply.

b) If the proportion of ground floor Class 1 shop units is less than 70%, applications for change of use from Class 1 to non-Class 1 may be permitted where it is demonstrated that the proposal will satisfy a)(i) and (ii) above **and** will achieve at least **one** of the following:

- (i) Protect the retail function of the Centre by resulting in not more than 3 adjacent non-Class 1 units within a street block;
- (ii) Deliver the re-use of long-term vacant premises**; and/or
- (iii) Accord with relevant Spatial Supplementary Guidance.

Comment: In respect of (i) the proposal would not result in more than 3 adjacent non-class 1 units within the street block as a result of the change of use.

In respect of (ii) and delivering the re-use of a long-term vacant premises, this is qualified by the caveat contained within the policy stating:

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.

The application site is recorded as being occupied in the 2019 retail survey and the applicant has supplied no supporting document providing any evidence of marketing, interested parties, details of leases offered as detailed above. In this respect it is not possible to determine that the unit could not be successfully marketed as a Class 1 use and has been marketed for a period of 12 months minimum.

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In respect of (iii) there is no relevant Spatial Supplementary Guidance.

c) It will not be necessary to satisfy the criteria within Section b) where there is a long-term pattern of vacant units in a Centre (ie. where the vacancy rate has exceeded 10% for the preceding 2 years or more).

Comment: Notwithstanding the above criteria in section (b) the vacancy rate for the previous 2 subsequent years has been above 10% and therefore the proposed use in a retail policy sense would be acceptable.

d) The loss of an operating retail unit, where there are vacant units in a Centre, will normally be resisted

Comment: The proposed would not result in the loss of a functioning unit.

Food, Drink and Entertainment Uses

Locational Guidance

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: The application site is adjacent to a residential site to the north, 23.8% of the uses are sui generis as hotfood shops or public houses and 4.8% are in use as class 3 uses. This would therefore mean that the proposed use would be contrary to policy and detrimental to the amenity of residents through increased noise, activity and cooking fumes.

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 (i) the neighbouring site to the north of the application site is a residential use and is therefore contrary to policy.

Given the above it is considered that whilst the proposal meets elements of policy in terms of long term vacancies within the town centre, the location of housing adjacent to the site means that it fails to meet the food drink and entertainment policies by being over 20% of

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uses in Class 3/Hotfood/Public House uses.

It is therefore recommended that the application be refused.

Date: 02/08/2021

DM Officer **Mr P O'Brien**

Date

DM Manager

REFUSAL 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. The premises would be adjacent an existing residential building, the proposed use as a hot food takeaway is contrary to the Outwith the City Centre guidance set out in Assessment Guideline 10c)(i) of Supplementary Guidance SG4: Network of Centres of the Glasgow City Development Plan 2017, and thus such use would be harmful to the residential amenity of neighbouring residential properties.

03. The proposed use of the premises as a hot food takeaway on a street block which already exceeds the 20% limit on the number of units in use as a hot food shop, public house, composite public house/Class 3 or composite hot food shop/Class 3 is contrary to the City-Wide guidance set out in Assessment Guideline 10a)(i)of Supplementary Guidance SG4: Network of Centres of the Glasgow City Development Plan 2017 thus such use would be harmful to the residential amenity of neighbouring residential properties.

REFUSED DRAWINGS:

A LOCATION PLAN

LLH-RIA- XX-XX-DR-A-90000

29 Mar 2021

PROPOSED DRAWINGS 01

LLH-RIA- XX-XX-DR-A-00101

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