



Planning Applications Committee

Report by
Divisional Director of Planning, Housing and Building
Standards

Item 1 (b)

8th March 2022

Contact: Patrick Barbour Phone: 0141 287 6273

Application Type Full Planning Permission

Recommendation Grant, subject to Conditions.

Application	21/02948/FUL	Date Valid	20.09.2021
Site Address	33 Clarence Drive Glasgow G12 9QN		
Proposal	Use of retail unit (Class 1) as a cafe (Class 3) and use of pavement as external seating.		
Applicant	FRKN Delicious 33 Clarence Drive GLASGOW G12 9QN	Agent	Bruach Design And Consultancy Per Colin Hastie Titan Enterprise Business Centre 1 Aurora Avenue Queens Quay G81 1BF
Ward No(s)	23, Partick East/Kelvindale	Community Council	02_118, Dowanhill, Hyndland & Kelvinside
Conservation Area		Listed	
Advert Type	Bad Neighbour Development Affecting a Conservation Area/Listed Building	Published	1 October 2021
City Plan			

Representations/Consultations

A total of six objections were received for the application, including from the Friends of Glasgow West, Dowanhill, Hyndland and Kelvinside Community Council and neighbouring commercial properties. The grounds of objection were as follows:

- Traffic congestion, traffic safety and on-street parking issues
- No discernible change from previous refused application
- Loss of a Class 1 shop with lack of marketing evidence to justify this
- Increase in covers from previously refused application
- Proposal will be detrimental to existing businesses
- Overprovision of Class 3 hot food shops in this location

Background Information

The applicant previously submitted an application for the same address, application reference 21/01370/FUL, for the use of retail unit (Class 1) as composite cafe (Class 3)/hot-food takeaway (Sui Generis) and use of pavement as external seating. The reasons for refusal are as below:

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 to Supplementary Guidance SG 4 Network of Centres (Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres, Assessment Guideline 10: Food, Drink and Entertainment Uses, Assessment Guideline 12: Treatment and Disposal of Cooking/Heating Fumes and Assessment Guideline 14: Waste Management and Disposal.)

03. Due to its location, which would result in a concentration of hot food shops in the middle of the retail row and to the lack of active frontage, the proposed composite cafe (Class 3)/hot-food takeaway (Sui Generis) would not support an appropriate balance and diversity of uses within the street block and would not contribute positively to the character of Hyndland Local Town Centre. Therefore, it would erode the retail character of the Local Town Centre and is contrary to Supplementary Guidance SG 4 Network of Centres, Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres.

04. Due to its location, the proposed composite cafe (Class 3)/hot-food takeaway (Sui Generis) would result in an unacceptable concentration of such uses in the street block frontage with associated increase in cooking fumes, noise and activity later in the evening to the detriment of the amenity of neighbouring residential properties and the amenity of the Town Centre. Therefore, the proposal is contrary to Supplementary Guidance SG 4 Network of Centres, Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres and to Assessment Guideline 10: Food, Drink and Entertainment Uses.

05. Due to the lack of on-site waste storage the proposal could adversely affect the amenity of the Local Town Centre and Conservation Area and is contrary to Supplementary Guidance SG 4 Network of Centres, Assessment Guideline 14: Waste Management and Disposal.

Following this decision, the applicant has revised the proposal to omit the hot-food takeaway elements of the proposal and applied for a change of use to Class 3 only.

Site and Description

The application site is a mid-terrace shop unit in a row of 10 single-storey shop units on the south side of Clarence Drive in the street block between Hyndland Road and Lauderdale Gardens. It is in Hyndland Local Town Centre, surrounded by an established residential area and is in Glasgow West Conservation Area and Ward 23 – Partick East/Kevindale.

To the rear (south) is a private service lane with a school football pitch beyond; to the west across Lauderdale Gardens is Hyndland Secondary School; to the north opposite on Clarence Drive are 4-storey tenements and to the east, at the end of the row of shops, the remainder of the street block is 4-storey tenements. The tenements are just outside the Local Town Centre.

The application is for a Class 3 use and use of pavement as external seating. The submitted floor plan shows a seating plan for 10 no. covers. The proposed external seating is 2 no. two person tables on the public footway immediately in front of the shop, enclosed by canvas barriers and posts.

The plan shows equipment for cooking/heating food as a hob with electric grill and fryer and states commercial ventilation will utilise existing vent grilles on the rear wall, which are located below eaves level.

Internal storage space for external furniture is shown at the front on the shop next to the front window. No shopfront alterations are proposed, and existing refuse storage within the rear lane are to be utilised for the Class 3 use.

The unit is currently in operation as an Ice Cream parlour under the existing Class 1 designation. The extension to Class 3 will allow them to sell hot food to be consumed on-site.

Policies

The City Development Plan consists of high-level policies with statutory Supplementary Guidance providing further information or detail in respect of the policies. Some Supplementary Guidance is still

under preparation and these items are considered as Interim Policy Guidance. The following policies are considered particularly relevant to the application assessment:

City Development Plan Policies

CDP1 – The Placemaking Principle
CDP2 – Sustainable Spatial Strategy
CDP4 – Network of Centres
CDP9 – Historic Environment
CDP11 – Sustainable Transport

Supplementary Guidance Documents

SG1 – The Placemaking Principle
SG4 – Network of Centres
SG9 – Historic Environment
SG11 – Sustainable Transport

The City Development Plan contains two overarching policies: CDP 1 The Placemaking Principle and CDP 2 Sustainable Spatial Strategy, which must be considered in relation to all development proposals. Other policies and associated supplementary guidance provide more detail on specific land uses or environments which contribute to meeting the requirements of the overarching policies.

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 main issues to consider in the assessment of this application are:- (a) whether the proposal accords with the Development Plan; (b) whether any other material considerations have been satisfactorily addressed.

DEVELOPMENT PLAN

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. In addition, under the terms of Section 64 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, the Council is required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The following City Development Plan policies are considered particularly relevant to the application assessment:

CDP 1 – The Placemaking Principle
CDP 2 – Sustainable Spatial Strategy
CDP4 – Network of Centres
CDP 9 – Historic Environment
CDP11 – Sustainable Transport

Relevant Supplementary Guidance:

SG 1 – The Placemaking Principle
SG4 – Network of Centres
SG 9 – Historic Environment
SG11 – Sustainable Transport

CDP 1 The Placemaking Principle aims for new development to contribute towards the creation of successful places, based on balancing the relationship between the physical, social and economic characteristics of the area. SG 1 Part 1 states placemaking priorities in the Historic Environment are:

a) Protecting and enhancing the unique character of historic buildings, structures and settings;
b) Promoting new development of the highest design and material quality which respects and integrates with the existing historic environment.

SG 1 Part 2 has guidance for physical alterations.

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

The Council will support new development proposals that (inter alia): protect and reinforce town centres as the preferred locations for uses which generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities.

Policy CDP 4 Network of Centres advises that the Council will favour proposals that support the

function of each Local Town Centre by maintaining an appropriate balance of uses, as outlined in Supplementary Guidance.

Supplementary Guidance SG 4 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. Class 1 uses serving a local catchment will be supported and non-Class 1 uses serving a local catchment will be assessed in line with Assessment Guideline 5.

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.*

*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:

The most recent Hyndland Town Centre Retail Survey in January 2022 found the proportion of ground floor shop units in Class 1 use was 76.1%. This has gone up from 71.4% at the time of the previous survey in 2019. Therefore, the proposal must be considered against a) (i) and (ii).

In relation to a) (i), it is considered that while a Class 3 use may not provide an active frontage in the way a Class 1 use might, this proposal would create an active frontage via the positioning of seating along the front window. One of the characteristics that creates a vibrant retail environment is the level of engagement of passers-by with the shopfronts, and it is considered that this proposal would achieve a sufficient level of engagement.

In relation to (ii) as noted above, it is considered that the proposal would not have an unacceptable effect on town centre or residential amenity particularly given the distance between the unit and the nearest residential properties.

Consequently, given the existing percentage of Class 1 shops in the Town Centre, as well as the overall increase of Class 1 units in the recent past, the proposal is consistent with SG 4, Assessment Guideline 5, a) (i) and (ii). Even after the change of use the proportion of Class 1 units in the Town Centre will be well above 70%.

The proposal accords with Assessment Guideline 5.

In relation to proposals for food, drink and entertainment uses, the Council has 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. Therefore, SG 4 has locational and technical guidance that deals primarily with issues of amenity.

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.

Comment:

The application site is in the street block is on the south side of Clarence Drive between Hyndland Road and Lauderdale Gardens. The site is not under residential flats, but the street block includes residential tenement flats.

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 within a rear lane. Criterion a) i) – iii) are therefore not applicable.

The proposal seeks to change a retail unit to a Class 3 restaurant, criterion c) i) and ii) are therefore not relevant. The applicant has sought hours of operation of between 11am until 11pm is within the range stated in criteria iii). The application property is located within the Hyndland Local Town Centre and so these hours of operation are therefore deemed appropriate.

The proposal accords with Assessment guideline 10.

Assessment Guideline 11: Outdoor Food and Drink Areas

b) Outwith the City Centre:

The provision of outdoor food and drink areas abutting existing premises will generally be supported where:

(i) They will not give rise to noise and activity levels likely to have an unacceptable impact on residential amenity;

(ii) They are not likely to have a detrimental impact on the privacy of adjacent residential backcourts and amenity spaces;

(iii) When located outwith Town Centres, they are not directly overlooked by residential property;

(iv) They will not interfere with the safe passage of pedestrian or vehicular traffic;

(v) Hours of operation, including setting up and removal of external furniture, are limited to between 08:00 hours and 22:00 hours (when located within Town Centres) or 08:00 hours and 21:00 hours (when located outwith Town Centres);

(vi) High quality furniture and boundary treatment can be provided; and

(vii) External furniture can be stored within the associated premises when not in use.

Comment:

It is considered that the proposed external seating would not interfere with the safe passage of pedestrian or vehicular traffic. Hours of operation, details of furniture and boundary treatment will be addressed by condition and internal storage for the external furniture is shown.

The proposal accords with Assessment Guideline 11.

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:

A high-level flue is not proposed. Cooking fumes would be dispersed by a commercial ventilation system via existing vents in the rear elevation of the shop unit. Full details of the proposed fume dispersal method have not been supplied but are controlled via planning condition.

The site is a single-storey building and the nearest residential properties are 4-storey tenements to the north and east, slightly uphill from the site. Consequently, it is not feasible to erect a flue to a height sufficient to disperse fumes above nearby property, and such a flue would be unlikely to preserve or enhance the character or appearance of the conservation area.

However, with regard to c), the nearest neighbouring residential properties are circa 25 to 27 metres from the application site, which indicates that a low level ventilation system may be acceptable, subject to conditions regarding specification, maintenance and installation of the proposed fume/odour treatment method.

Environmental Health were consulted and had no objections to the proposal subject to conditions on the detail of the proposed ventilation system.

The proposal accords with Assessment Guideline 12.

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 SG 11.

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.

Comment:

The proposed waste storage facilities are the existing external refuse storage adjoining the shop unit in the service lane to the rear. This includes fencing and gates enclosing an area approx. 1.3m deep and 4.7m wide, across the width of the unit.

The proposal accords with Assessment Guideline 14.

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.

Comment:

As the site is in an area with high accessibility to public transport and in Restricted Parking Zone, lack of off-street parking is acceptable and accords with the restraint based maximum parking standards.

It is considered that 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.

Conclusion

In view of the above, the proposal would support an appropriate balance and diversity of uses within the street block, would contribute positively to the character of Hyndland Local Town Centre and would not have an unacceptable impact on residential amenity.

In terms of issue (a), therefore, the proposal is considered to accord with the Development Plan, having regard to the designated land use and all relevant policies as addressed above.

In respect of (b), with regard to the Material considerations, these are as follows:

Letters of Objection

- There is risk of more commercial waste and more traffic congestion which would be unacceptable in an area where it is already a traffic hot spot.

Comment: Waste storage is provided, and it is not considered that the change of use will have a significant impact on traffic congestion.

- Granting permission for class 3 here will be detrimental to existing business

Comment: Though this is not a material planning consideration, there is only one other Class 3 use within the street block and there will remain a healthy mix of uses.

- Allowing use of the pavement would also restrict access of the pavement to pedestrians and disabled access could be hindered due to excessive obstacles.

Comment: A clear footway of 2m will be left for pedestrians passage, which will be addressed by a condition.

- As far as we can see the only change in the current application is the statement that the sale of food will "primarily be for customers to consume on the premises". We can see no reason to change the earlier decision and as such would confirm our objection to the latest application and recommend it again be refused.

Comment: The previous application was for a hybrid hot food takeaway/Class 3 use, the current application is not for a hot food takeaway but for a Class 3 restaurant. As addressed above, the proposal has been assessed against the relevant City Development Plan policies and was considered to be accordance with the Development Plan.

- This application is for the change of use of a shop unit from retail (Class 1) to a cafe (Class 3). The applicant ought to be able to provide proof that this Class 1 retail unit has been marketed for 12 months for Class 1 shop use, as required by the City Development Plan SG4, 3.16. There is no evidence that this is the case.

Comment: As the proportion of Class 1 units in the Town Centre is above 70% and the unit is not vacant, marketing information is not required.

- This is a re-application of previously refused application 21/01370/FUL, with the only difference being a proposed increase in covers from 12 to 14. The grounds for our objection remain the same. There would be an impact on "the retail character" of this group of shops on Clarence Drive, with 30% of the block being hot food premises, affecting local amenity.

Comment: The previous application was for a hybrid hot food takeaway/Class 3 use, the current application is not for a hot food takeaway but for a Class 3 restaurant. The proposal is for a Class 3 restaurant and will not impact on the proportion of hot food premises in the block. As addressed above, the proposal has been assessed against the relevant City Development Plan policies and was considered to be accordance with the Development Plan.

Reasons for Refusal of previous Application (21/01370/FUL)

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 to Supplementary Guidance SG 4 Network of Centres (Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres, Assessment Guideline 10: Food, Drink and Entertainment Uses, Assessment Guideline 12: Treatment and Disposal of Cooking/Heating Fumes and Assessment Guideline 14: Waste Management and Disposal.)

03. Due to its location, which would result in a concentration of hot food shops in the middle of the retail row and to the lack of active frontage, the proposed composite cafe (Class 3)/hot-food takeaway (Sui Generis) would not support an appropriate balance and diversity of uses within the street block and would not contribute positively to the character of Hyndland Local Town Centre. Therefore, it would erode the retail character of the Local Town Centre and is contrary to Supplementary Guidance SG 4 Network of Centres, Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres.

04. Due to its location, the proposed composite cafe (Class 3)/hot-food takeaway (Sui Generis) would result in an unacceptable concentration of such uses in the street block frontage with associated increase in cooking fumes, noise and activity later in the evening to the detriment of the amenity of neighbouring residential properties and the amenity of the Town Centre. Therefore, the proposal is contrary to Supplementary Guidance SG 4 Network of Centres, Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres and to Assessment Guideline 10: Food, Drink and Entertainment Uses.

05. Due to the lack of on-site waste storage the proposal could adversely affect the amenity of the Local Town Centre and Conservation Area and is contrary to Supplementary Guidance SG 4

Comment: This current application is not for a hot food takeaway hybrid use but for a Class 3 restaurant. As addressed above, the proposal accords with the relevant City Development Plan policies and therefore is in accordance with the Development Plan.

CONCLUSION

The above demonstrates that the proposed development complies with the relevant policies of the Development Plan. Other material considerations including the consultation responses and letters of objection have been considered, however these do not outweigh the proposal's accordance with the Development Plan.

On the basis of the foregoing, it is recommended that the application for Planning Permission be granted subject to the following conditions.

Conditions and Reasons

01. The use of the premises shall be restricted to the following days and hours of operation: 11:00 – 23:00 7 days a week.

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

02. All doors and gates shall open inwards or be recessed and not open outwards over the public footway.

Reason: To ensure that gates do not obstruct pedestrian or vehicle movement or create a safety hazard.

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 to the rear of the building. 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. Light from the development shall not give rise to:

(a) An "Upward Waste Light Ratio" (maximum permitted percentage of luminaire lux that goes directly to the sky) in excess of 15%

(b) A "Light Into Windows" measurement in excess of 10Ev (lux). (Ev is the vertical luminance in lux.)

(c) "Source Intensity" measurement in excess of 100 Kcd (kilocandela). (Source Intensity applies to each source in the potentially obtrusive direction out of the area being lit.)

Reason: In the interests of limiting the effects of light pollution on the environment and the users of surrounding developments, and of energy efficiency.

05. 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.

06. 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

07. A minimum unobstructed footway width of at least 2 metres shall be maintained at all times.

Reason: In the interests of pedestrian safety.

08. The operational area for the external seating area shall be delineated by removable barriers.

Reason: In the interests of pedestrian safety.

09. All tables, chairs and barriers shall be removed off street outwith operational hours or when the external seating area is not in use.

Reason: In the interests of pedestrian safety.

10. Full details of the design and material of the tables, chairs and barriers shall be submitted for the written approval of the planning authority.

Reason: To allow the planning authority to consider these aspects in detail.

Reason(s) 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. The applicant should consult with Land and Environmental Services (Environmental Health) concerning this proposal in respect of legislation administered by that Service which is likely to affect this development.
02. Before the lighting system is installed, the applicant should submit certification from a member of the Institute of Lighting Engineers, or other suitably qualified person, to the planning authority confirming that the proposed system will satisfy the requirements of the light pollution condition.
03. Before the use commences, the applicant should, following the testing of the installed lighting system, submit certification from a member of the Institute of Lighting Engineers, or other suitably qualified person, to the planning authority confirming that the system complies with its design specification.

04. 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.
05. 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.
06. 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.
07. 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.
08. 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.
09. 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).

for Chief Executive, Glasgow City Council

DC/ PBA/20/01/2022

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