



**PLANNING APPLICATIONS COMMITTEE**

**Report by Executive Director of Development and Regeneration Services**

**Contact: Mr C Pepper Phone: 0141 287 8649**

**ITEM 1 (h)**

**18th June 2013**

**APPLICATION TYPE** Full Planning Permission

**RECOMMENDATION** Refuse

**APPLICATION** 13/00851/DC

**DATE VALID** 27.03.2013

**SITE ADDRESS** 724 Pollokshaws Road Glasgow G41 2AD

**PROPOSAL** Use of premises as cafe/restaurant (Class 3) with associated rear extension and installation of flue.

**APPLICANT** Kulwinder Kavr Kainth  
724 Pollokshaws Road  
Glasgow  
G41 2AD

**AGENT** David Jarvie  
27 Aytoun Road  
GLASGOW  
G41 5HW

**WARD NO(S)** 06, Pollokshields

**COMMUNITY COUNCIL** 02\_096,  
Shawlands/Strathbungo

**CONSERVATION AREA**

**LISTED**

**ADVERT TYPE** Bad Neighbour Development

**PUBLISHED** 19 April 2013

**CITY PLAN** Town Centre (DEV4)

## REPRESENTATIONS/ CONSULTATIONS

12 letters of representation have been received from members of the public in support of this application, the grounds of support are as follows:

- There are no concerns with regard to overprovision of a café/restaurant in this area;
- The use will provide variety and diversity within the area; and
- The unit is vacant and its reuse will improve the area and provide local jobs.

Consultations:

LES Public Health Unit – no response.

## SITE AND DESCRIPTION

The application site comprises a ground floor Class 1 retail unit located within the Strathbungo Town Centre (Tier 3). The building is located on the north side of Pollokshaws Road, approximately 50m west of its junction with Nithsdale Street. The property is unlisted and falls outwith the boundary of the Strathbungo Conservation Area. Immediately above the property there are traditional blonde sandstone tenement flats over a further two storeys.

The Planning application seeks consent for a change of use of this unit from a shop (Class 1) to a café/restaurant (Class 3) with associated external alterations; including the erection of a small rear extension (7sqm) and the siting of a high-level flue to the rear of the property terminating at 1m above the eaves of the adjoining tenement property of 714 Pollokshaws Road.

Further to this, the opening hours are proposed at 0700 – 2300, 7 days per week.

The premises is located within a street block which is defined as 704 Pollokshaws Road (west) – 4 Nithsdale Road (east); the units/uses within the street block are as follows. From west: hairdressers (Class 1), public house (Sui-Generis), hot-food takeaway (Sui-Generis), hairdressers (Class 1), public house (Sui-Generis), *application site* (Class 1 – see below), hairdressers (Class 1), bookmakers (Class 2), shop (Class 1), shop (Class 1), cafe (Class 3), hot-food takeaway (Sui-Generis) and public house (Sui-Generis). Of these 13 units, it is noted that 6 (inc the application site) are currently Class 1 based uses with the remaining 7 uses in non-retail based uses. Additionally, all units within this street block are occupied.

## PLANNING HISTORY/BACKGROUND

In 2000, planning permission was granted at this property for a change of use from a shop (Class 1) to a chiropodist (Class 2), however in the intervening years the use had reverted to Class 1 with the last known use being as a printing shop. It is noted, that under Class 10 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, that a change of use from Class 2 returning to Class 1 is permitted and would not require a further application for planning permission.

Upon visiting the site, it is noted that the unit is currently trading as a 'Cash4Clothes' which operationally involves visiting members of the public selling clothes directly on an over-the-counter basis, without any additional retail component. Given this, the view is taken that this use would not fit within Class 1 as it is not retail based, nor Class 2 as it is not service based – as such the current use would likely be Sui-Generis. In the absence of a planning consent to change the use to a Sui-Generis use, it is considered that this application must be assessed on the basis of the extant use - which would remain as Class 1; by virtue of the fact that the 'Cash4Clothes' business has not operated continually for 10 years preceding the date of application.

## POLICIES

DEV 4	-	Town Centres
SC7	-	Protection and Promotion of Local Shopping Centres and Local Shops
SC10	-	Non-retail uses in Tier 1, 2 and 3 Town Centres
SC11	-	Food, Drink and Entertainment Uses
DES 9	-	Alterations to Shops and Other Commercial Buildings

## 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 the Glasgow and Clyde Valley Strategic Development Plan and City Plan 2. There are no specific policies of relevance to the application proposal in the Strategic Development Plan.

The site falls within a Town Centre area as designated within City Plan 2. This Development Policy Principle (DEV 4) notes:

*“Their designation is based on the size and range of their retail function, accessibility by public transport, importance as principal focal points and range of supporting community facilities. They, generally, also support residential populations living both within, and on the edge of, the Centres.*

*Under the sequential approach to site selection, they are the preferred locations for retail and commercial leisure development. In considering proposed developments, the Council will give priority to improving the environmental quality, vitality and viability and residential amenity of these areas”*

As the proposal is for a cafe/restaurant use, it is considered that the change of use will not result in a development which appears incongruous or uncommon within a designated Town Centre area. In terms of the Development Policy Principle, the proposal is therefore considered to be commensurate with DEV 4 of Glasgow City Plan 2, and would therefore not be considered contrary to the Development Plan.

The proposal also requires to be considered/assessed against the following policies:

### **SC7 – Protection and Promotion of Local Shopping Centres and Local Shops**

Policy SC7 aims to support and protect the retail function of existing local shopping centres and local shops. In this regard, the application site/premises is an existing Class 1 unit located within the Strathbungo local Town Centre.

SC7 requires that where a proposal would result in the loss of a retail unit, that the applicant must demonstrate that the site has been marketed for Class 1 use, at a realistic commercial rental level, for a period of 12 months – and that documentation supporting such marketing shall be submitted in support of any application. The aim of this policy requirement is to ensure that only in circumstances where it can be demonstrated that a unit is no longer a viable Class 1 use (i.e. through vacancy and no interest in subsequent marketing), then the planning authority will consider applications for appropriate alternative use classes. In this regard, it is noted that the site is not presently vacant and is therefore trading as a viable Class 1 retail unit.

Given the above, approval of an application would result in the unnecessary loss of a viable Class 1 use within the Strathbungo Town Centre, which would be contrary to the requirements of policy SC7.

### **SC10 – Non-retail uses in Tier 1, 2 and 3 Town Centres**

This policy seeks to support the maintenance and enhancement of the vitality and viability of all Town Centres through encouraging an appropriate balance and diversity of uses within each Centre. Therefore, the Council seeks to maintain the proportion of Class 1 shop units within town centres at 70% or more. In respect of the Strathbungo Town Centre, it is noted that the overall proportion of Class 1 uses is 39.8% (of which 8.6% are vacant), with non-retail uses accounting for 60.2% of the units – *as per the planning authority’s February 2013 Town Centre retail assessment.*

This information notwithstanding, it is accepted that as a result of retailing being below 50% within the Town Centre, there is an acknowledgement within SC10 for the need for a more comprehensive study of its role within the network of centres and this should be factored into the emerging Local Development Plan.

While this may be the case, it is accepted that in this instance, the survey clearly demonstrates that there are 5 vacant non-Class 1 units (as well as a further 8 vacant Class 1 units) within the Town Centre. On this basis, the loss of a Class 1 use, is not supported and would fail to meet the aims of policy SC10.

## SC11 – Food, Drink and Entertainment Uses

Policy SC11 requires proposals for Class 3 uses should not result in a significant adverse effect on the amenity of adjacent residents through noise and/or cooking fumes. As the proposed use does not fall within that of a public house, Class 11 or Sui-Generis hot food takeaway use the proposal is not required to comply with the 20% frontage retention of Policy SC11 and is therefore, on balance, considered acceptable in this respect.

The policy also provides information concerning the treatment and disposal of cooking fumes. In this regard, the policy states that the preferred method of dispersal of fumes is for a rear mounted, high level flue and that the acceptability of other methods of extraction will be based on advice from the Council's Environmental Health section. In this respect, the proposed use is supported by high level extraction which would terminate 1m above the eaves level of the adjoining tenement property. On this basis, the application is considered to generally accord with policy in terms of its extraction/ventilation proposals.

Furthermore in relation hours of operation, Policy SC 11 states: normal closing time will be in the following range depending on local circumstances:

- *Sunday to Thursday - between 20.00 hours and 24.00 hours*
- *Friday and Saturday - between 20.00 hours and 01.00 hours*
- *Permission will not normally be granted for opening hours beyond 01.00 hours*

The proposal seeks to operate from 0700 – 2300 (7 days per week) and therefore meets the requirement of policy in this respect.

## DES 9 – Alterations to Shops and Other Commercial Buildings

Policy DES 9 and associated Development Guide DG/DES 2 outline the requirements of external alterations to commercial buildings to ensure that they enhance the appearance of the property and street scene and cause no disamenity to neighbours.

In respect of the proposed rear extension, it is noted that this development is minor in scale (7sqm gross internal floor area) and seeks to infill a gap area on the rear elevation. Furthermore, the proposed extension would not detrimentally impact on the surrounding amenity of neighbouring residents and in respect of design and proportion, this element of the scheme is considered commensurate the principles of policy DES 9.

In terms of issue (a), the proposal is not considered to be in line with the Development Plan.

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

- There are no concerns with regard to overprovision of a café/restaurant in this area.

**Response:** As per policy SC10, the proposal would – in essence – result in the loss of a viable retail unit within a Town Centre which is currently experiencing low levels of retailing, at the expense of overall viability. While applications which represent the loss of retail may be supported where the unit has been vacant and appropriately marketed as a Class 1 use, this application does not meet this criteria and therefore it is contended that the proposed would result in the unnecessary loss of retailing within this Town Centre.

In respect of overprovision of Class 3 uses, it is noted that as per the retail survey, 9.7% of the total uses within the Town Centre fall within Class 3. Given this, it is accepted that there is not an overprovision of this use class within the locale – albeit when other non-Class 3 hot-food uses are taken together, the combined level of provision is significantly higher.

- The use will provide variety and diversity within the area.

**Response:** Given the high proportion of non-retail uses within the wider Town Centre, as well as the high proportion of hot-food and food based uses within the locale, it is not considered that the unit will provide further diversity of uses within the area.

- The unit is vacant and its reuse will improve the area and provide local jobs.

**Response:** Upon site inspection, it is noted that the unit is not vacant and is currently trading as a Cash for Clothes, which is a Class 1 retail based use.

Based on the foregoing assessment it is considered that the proposal fundamentally fails to meet the requirements of the City Plan, specifically in respect of the lack of vacancy. On this basis, it is noted that the loss of a viable retail unit raises a fundamental tension with policy which would reduce the vitality and viability of retailing within this local town centre.

In this instance, the content of the letters of support are not considered to outweigh the proposals variance with the Development Plan and in the absence of any further material considerations it is noted that the proposal is unacceptable and it is recommended that planning permission be refused.

#### ADVISORY NOTES TO APPLICANT

01. The applicant is advised that one further application, by the same applicant, for a development of the same character or description, and for the same part of that site (as this refusal) within 12 months of the date of this notice is exempt from planning fee charges.
02. Should, for any reason, the applicant be unclear about the reasons for the refusal of permission in this case, or if further information is desired concerning the reason for refusal, the applicant is requested to contact the planning authority to seek clarification.

#### REASONS FOR REFUSAL

01. The proposal was not considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's variance with the Development Plan.
02. The proposed change of use is contrary to Policy SC7 of the Glasgow City Plan 2, as it has not been sufficiently demonstrated that the existing Class 1 (retail) unit has been vacant and marketed for a period no less than 12 month prior to the submission of the application. The proposal is therefore contrary to the aims of City Plan 2 in safeguarding against loss of retail.

03. The proposed change of use is contrary to Policy SC10 of the Glasgow City Plan 2, as its approval would result in the unnecessary loss of a viable Class 1 use within the Strathbungo Town Centre, to the detriment of the vitality and viability of the Town Centre.

for Executive Director of Development and Regeneration Services

DC/ CPE/amu  
04/06/2013

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**Glasgow City Council**

Development and Regeneration  
Development Management  
231 George Street  
Glasgow G1 1RX

Executive Director: Richard Brown

Reference No. **13/00851/DC**

Address: **724 Pollokshaws Road**

Scale: 1:1250

**Indicative Site Location**

Ward: **06**



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Location of Site:  
(For details, refer to Report)