



Item 6

29th April 2025

Planning Services 231 George Street GLASGOW G1 1RX Tel: 0141 287 8555 Email: onlineplanning@glasgow.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100699404-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number: You must enter a Building Name or Number, or both: *

First Name: * Building Name:

Last Name: * Building Number:

Telephone Number: * Address 1 (Street): *

Extension Number: Address 2:

Mobile Number: Town/City: *

Fax Number: Country: *

Postcode: *

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

| | | | |
|----------------------|---------------------------------------------------|------------------------------------------------------|---------------------------------------------|
| Title: | <input type="text" value="Other"/> | You must enter a Building Name or Number, or both: * | |
| Other Title: | <input type="text" value="other"/> | Building Name: | <input type="text"/> |
| First Name: * | <input type="text" value="blank"/> | Building Number: | <input type="text" value="214"/> |
| Last Name: * | <input type="text" value="blank"/> | Address 1 (Street): * | <input type="text" value="Albert Drive"/> |
| Company/Organisation | <input type="text" value="Albert Drive Burgers"/> | Address 2: | <input type="text"/> |
| Telephone Number: * | <input type="text"/> | Town/City: * | <input type="text" value="Glasgow"/> |
| Extension Number: | <input type="text"/> | Country: * | <input type="text" value="United Kingdom"/> |
| Mobile Number: | <input type="text" value="REDACTED"/> | Postcode: * | <input type="text" value="G41 2NJ"/> |
| Fax Number: | <input type="text"/> | | |
| Email Address: * | <input type="text" value="REDACTED"/> | | |

Site Address Details

| | |
|-----------------------------------------------------------------------|---------------------------------------------------|
| Planning Authority: | <input type="text" value="Glasgow City Council"/> |
| Full postal address of the site (including postcode where available): | |
| Address 1: | <input type="text" value="214 ALBERT DRIVE"/> |
| Address 2: | <input type="text"/> |
| Address 3: | <input type="text"/> |
| Address 4: | <input type="text"/> |
| Address 5: | <input type="text"/> |
| Town/City/Settlement: | <input type="text" value="GLASGOW"/> |
| Post Code: | <input type="text" value="G41 2NJ"/> |

Please identify/describe the location of the site or sites

| | | | |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="663360"/> | Easting | <input type="text" value="257749"/> |
|----------|-------------------------------------|---------|-------------------------------------|

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Use of vacant shop(Class 1A) as hot food takeaway(Sui Generis) with erection of flue at rear

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Failure of case officer to properly assess the application

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Statement of Appeal, Decision Notice, Report of Handling, Application Form, Plans/drawings, Marketing letter

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

24/01060/FUL

What date was the application submitted to the planning authority? *

30/05/2024

What date was the decision issued by the planning authority? *

03/12/2024

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Don Bennett

Declaration Date: 27/01/2025

bennett *Developments and Consulting*

10 Park Court,
Glasgow, G46 7PB
don@bennettgroup.co.uk

STATEMENT OF APPEAL

23.1.2025

214 ALBERT DRIVE, GLASGOW, G41 2NJ

APPEAL TO GLASGOW CITY COUNCIL LOCAL REVIEW COMMITTEE AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE CHANGE OF USE FROM VACANT RETAIL SHOP TO HOT FOOD TAKEAWAY(SUI GENERIS) AND INSTALLATION OF FLUE AT REAR OF THE ABOVE PREMISES.

APPLICATION REF: 24/01060/FUL

01 Background:

The property at 214 Albert Drive occupies the ground floor of a three storey sandstone tenement in a row of other commercial uses. The property which is within the West Pollokshields Conservation Area and is listed, is in an area defined as a Local Town Centre, and exhibits a wide range of uses expected of a town centre.

The property is vacant and has been for more than two years despite efforts to market it for retail use.

On 30/6/24 an application for planning permission(24/01060/FUL was lodged for the change of use of the vacant unit to a hot food takeaway and installation of a flue at the rear

On 3/12/24 the application was refused.

02 Reasons for Refusal:

In refusing the application, the following reasons were cited:

01 The proposal was not considered to be in accord with the Development Plan and there were no material consideration which outweighed the proposals variance with the Development Plan

02 The proposed development, due to its detrimental impact to the character of the listed building and Conservation Area, is contrary to Policy 7 of the National Planning Framework 4 and there is no overriding reason to depart therefrom.

03 The proposed development due to its location within and adjacent to residential properties and impact on the residential amenity of the surrounding area is contrary to Policy 14 of NPF4 and there is no overriding reason to depart therefrom

04 The proposed development due to its location within and adjacent to residential properties and impact on the residential amenity of the surrounding area is contrary to Policy 27 of NPF4 and there is no over riding reason to depart therefrom

05 The proposed development due to its location within and adjacent to residential flats is contrary to CDP4/SG4 and the corresponding Supplementary Guidance SG4 -Network of Centres of the City Development Plan and there is no overriding reason to depart therefrom.

06 The proposed development due to its detrimental impact to the character of the listed building and the Conservation Area is contrary to Policy CDP9; Historic Environment and the corresponding Supplementary Guidance SG9: Historic Environment of the Glasgow City Development Plan as assessed above and there is no overriding reason to depart therefrom.

In essence notwithstanding the repetition evident in the reasons, the claimed impact on residential amenity and the alleged impact on the Conservation Area were the overriding reasons for the refusal

03 Response to reasons for refusal:

In determining an application the planning officer is required to assess the application in the context of the latest and adopted Local Development Plan and other legislation such as the National Planning Framework, in this case NPF4.

Within these documents is a wealth of policy guidance and direction providing both guidance and direction to the applicant, and in the case of NPF4, the local authority.

The policy guidance ranges from over arching and all embracing policies which set the context and provide a background, to the more detailed policy guidance to be found on a series of more specific subjects.

The planning officer is then required to produce a Report of Handling(**ROH**) which should contain a full, comprehensive and concise reason and justification based on the appropriate policies, for the resultant recommendation, in this case, to refuse.

It follows therefore that we need to critically scrutinise and exam that document in order to determine whether or not the correct policies were properly applied, understood and interpreted correctly.

The ROH identifies a series of policies in both NPF4 and the Local Development Plan which it is claimed provided a competent assessment of the application. These are:

NPF4

Policy 1- Tackling the climate and Nature Crisis

Policy 2- Climate Mitigation and Adaptation

Policy 7- Historic Assets and Places

Policy 12- Zero Waste

Policy 13- Sustainable Transport

Policy 14- Design, Quality and Space
Policy 27- City, Town and Commercial Centre

LOCAL DEVELOPMENT PLAN

CDP1/SG1- The Placemaking Principle
CDP4/SG4- Network of Centres
CDP9/SG9- Historic Environment
CDP11/SG11- Sustainable Transport

Taking the policies in the order in which they appear in the ROH we would comment as follows:

NPF4 Policy1 and NPF4 Policy 2 Tackling Climate etc

Response: *While these are overarching policies which must be considered in respect of most developments, the nature and scale of the proposal is such that they do not have any relevance to this development proposal*

NPF4-Policy 7 Historic Assets and Places

This policy seeks to ensure that development proposals in or affecting Conservation Areas will only be supported where they do not impact on the character and appearance of the Conservation Area. In the ROH it is accepted that the only aspect of the proposal the flue, is on the rear elevation and cannot be seen. Yet as no details of the colour of the flue or how it is attached to the building have been provided, it fails to comply with the policy.

Response:

This is simply untrue. There is no requirement to provide details of the colour of the flue and had this information been sought the preferred colour could have been provided. As regards the issue of lack of details on how the flue will be attached to the building, again this is simply untrue. The drawings (31153/4 and 31153/2) clearly state the means of fixing to the building, the technical specification of the flue provides a comprehensive specification of the extraction flue and its attachment to the building, and the Planning Application Form, all provided the necessary details.

While it is recognised that the property is a listed building, the proposal does not impact on any aspect of that listing or impact on the character of the Conservation Area. To all intents and purposes, the imposition of Policy 7 in NPF4 and CDP9/SG9 Historic Environment in the Local Development Plan were unnecessary as the property is unaffected by this proposal.

There was clearly no shortage of information on the technical specification of the extraction vent and how it was to be attached to the property, so this cannot be considered as a reason to refuse.

As the proposed development did not involve any changes to the property there was no impact on either the building or the Conservation Area, so any suggestion that the proposal would adversely affect the building or the Conservation Area is without foundation and cannot be considered as a reason to refuse.

NPF4- Policy 12 Zero Waste

The ROH claims that no information was provided on this matter which is untrue.

Response:

This is yet again untrue. The Planning Application and accompanying drawings make it abundantly clear that the appellant was aware of the potential problems associated with hot food takeaways and therefore

the proposal incorporated measures to ensure that these problems would not arise. In the first instance it incorporated a full technical specifications for the extraction system which would ensure that heat, noise, odours and smells would be effectively addressed. Secondly it made provision for the proper and effective storage of waste within the premises by incorporating a dedicated waste storage facility. In addition a scheme for the disposal of waste was included which was based on the waste only being placed outside at the appointed time for uplift by the appointed contractor. This would ensure that bins did not obstruct pedestrian movements and that litter would not be an issue. The ROH claims that this is insufficient but beyond identifying the contractor and agreeing a contract, all of which is the prerogative of the tenant, there is nothing more that could reasonably have been added.

There was clearly sufficient information on the proposed extraction system and management of the refuse to comply with the policy, so this cannot be considered as grounds for a refusal

NPF4 Policy 13 Sustainable Transport-Development proposals which do not require car parking will be supported.

Response:

As the application site is within a defined town centre and is easily accessed by public transport cycling and walking. It is accepted that the proposal accords with the policy

NPF4 Policy 14 Design, Quality and Space-

This policy seeks to identify those qualities which it is believed will deliver quality.

Policy 14 defines what these six qualities are and the ROH claims that the proposed development fails to address these qualities, though no justification is given for these claims.

Response:

However if we consider these six qualities, it is apparent that the proposal has had regard to these qualities and has met all of them.

The six qualities are:

1.Healthy:

Prioritisation of women's safety and improving physical and mental health-

The proposal ,by introducing another active venue in the street and the splay of light from the window will help to generate a sense of security and safety by animating this part of the street.

2.Pleasant:

Supporting attractive natural and built spaces –

The Town Centre relies for its well being in having as few empty units as possible and in providing the range of goods and services accessible to the surrounding area..

3.Connected:

Supporting well connected networks that make moving around easy and reduce car dependency.

The area has a wealth of bus services and has access to rail services. It is easily accessible by foot and by cycling.

4.Distinctive:

Supporting attention to detail of local architectural styles and natural landscapes to reinforce local identity.-

The fact that the unit which is one of the original small independent units will be occupied ,and will not be altered in any way will continue to contribute to the local identity which is one of vibrancy and vitality.

5.Sustainable:

Supporting the efficient use of resources that will allow people to live, play work and stay in their area.

The location of the site, being at the heart of the town centre,,is well placed to contribute to all of the above.

6.Adaptable:

Supporting commitment in investing in the long term value of buildings, streets and spaces by allowing for flexibility so that they can be changed to accommodate different uses as well as maintained over time.

Fundamental to sustainability is the need to be able to adapt and to change as customs and habits change. The proposed development in recycling an existing vacant property,demonstrates this admirably, yet this appears not to be understood by the case officer

Further, **NPF4 Policy 14** also states that developments which are poorly designed, detrimental to the amenity of the surrounding area or are inconsistent with the six qualities of successful places, will not be supported.-

The proposal involves the use of an existing building so the design is not an issue, and the measures which have been put in place to ensure residential amenity, will be highly effective in achieving that end.

NHF Policy 27 City, Town, Local and Commercial Centres/ CDP4/SG4

These policies seek to ensure that developments should enhance the vitality and viability of all centres, including proposals that increase the mix of uses. This should also be read in conjunction with the “20 Minute Neighbourhoods “ policies which as the name suggests is aimed at reducing traffic movements,by ensuring that everyone is within twenty minutes of a range of goods and service. This is so true of blocks of residential properties such as in this instance. CDP4/SG4 adds to these sentiments by providing much more detailed guidance and direction by way of Assessment Guidelines covering a range of specific aspects of development such as:

SG4 Assessment guideline 5- proposed non -retail uses in local town centres

SG4 Assessment guideline 10-Food, Drink and Entertainment Uses

SG4 Assessment guideline 12- Treatment and disposal of Cooking/Heating Fumes

Response:

The above guidance seeks to provide direction on specific aspects of uses which may prove problematic. Taking each in turn:

Guideline 5 – The aim of this guidance is to ensure that there is a balance between retail and non-retail uses.

In this case the property which, as has been stated previously, is within the local town centre and as such has to be economically and financially viable, be vibrant and dynamic, has been vacant for over two years despite marketing attempts which produced no interest in retail at all. In terms of creating attractive and vibrant spaces it is better that all units be occupied rather than the spectre of empty and derelict units.

There is no advantage to be gained by imposing a policy which is no longer fit for purpose and does not reflect the reality of the market, and the market clearly has no appetite for retail. Is the result to be another abandoned listed property which will find its way onto the Buildings at Risk Register, fall into decay, become a disamenity to the area with the obvious impact on residential amenity particularly those living above the unit, will become a target for vandalism and signposting, will generate no rates to the City Council, will stifle investment and will deny job opportunities to local residents. Such a result would surely be a clear dereliction of the City Councils duties and would be a blight to the area.

Guideline 10 – The aim is to ensure that the presence of non-retail uses will not impact negatively upon the amenity of the area and to this end will only support those uses which can demonstrate that they can be accommodated without problems.

The measures which have been put in place will ensure that the presence of this proposed development will not impact upon the area.

Guideline 12- Aimed at ensuring that the by products of any use is properly and efficiently dealt with. See above **NPF4 Policy 12 Zero Waste** which provides details on this subject.

Policy CDP1/SG1 Placemaking- Waste storage and collection and NPF4 Policy 12 Zero Waste –

It is claimed within the ROH that issues related to this matter have not been fully explained and are insufficient.

*As per above see **NPF4 Policy 12 Zero Waste** which adequately addresses these matters.*

Within the Local Development Plan, **Policies CDP1 and SG1 – Placemaking**, and **CDP4 and SG4 – Network of Centres**, reflect and reinforce the above referenced NPF4 policies, so it is not necessary to reiterate these policies.

From all of the above it is evident that the proposed development can be accommodated within the requisite policies eg.,waste management, sustainable transport, design quality and space, odour extraction measures ,hours of operation, the six qualities of successful places as demonstrated above, were all incorporated within the design and should have been identified by the case officer. The only issue outstanding appears to be the question of residential amenity which is a highly subjective concept, and is a phrase which is much abused and less easily defined..

It is accepted that in areas where there is a mix of residential and other non-residential uses that there may be tension and conflict between uses. Nevermore so than in inner city areas where there is a dense concentration of residential and non-residential and space is at a premium.

Policy SG4 Network of Centres, defines the range of centres within the city from the city centre to small local shop groups. It identifies the number of town centres within the city and prescribes a number of criteria for their status, namely that such centres should provide a wide range of goods and services to all of the surrounding area permitting those residents to enjoy the “twenty minute neighbourhood” concept in that all needs should be met within a twenty minute journey time. It is obvious therefore that within the range of services available that hot food takeaways must feature as they are a popular venue in any neighbourhood.

The confusion arises in that while Policy SG4 of the Local Development Plan and Policy 27 of NPF4 both require that such uses should not be near or adjacent to residential, they fail to recognize the fact that

Glasgow is a tenemental city with residential above commercial uses on the ground floor. Indeed the largest percentage of small independent outlets are to be found in this zone and it follows that by virtue of the density of the tenemental stock that the only space for any kind of use is going to be the ground floor. As regards the “twenty minute neighbourhood” concept that can only happen if the ground floor of the tenements is used to its fullest and that surely must include hot food takeaways.

In the ROH this fact appears to have been forgotten and instead of recognizing the measures which will be put in place to ensure that amenity will not suffer, the planner has simply claimed that the site is unsuitable for such a use and ignored the range of failsafe devices which will be incorporated into the development. This is not acceptable. Given that within the city, almost every street is a tenemental street, and the town centre is required to provide services for all needs, it follows that properties below tenemental flats must be used for uses such as that proposed but with the proviso that as these are the only sites available for such uses it is necessary to impose a series of conditions that address the potential problem areas, namely noise, odours, smells, heat and refuse management and disposal. The appellant recognizes this fact and has incorporated a range of measure that will ensure that these problems will not impact on residential amenity.

04 Summary:

It is evident from all of the above that the reasons cited for refusing this application were flawed. If we remind ourselves of the reasons given, namely that the proposal would be

- a) Detrimental to residential amenity
- b) Detrimental to the listed building and the Conservation Area.

It was the duty of the case officer to demonstrate that to be true, and no such demonstration or justification has been presented, beyond simply stating the opinion, as fact.

A review of the planning submission makes it quite clear that the appellant was mindful of the potential amenity issues and incorporated a series of measures into the design all of which have been accepted. Given that this is the case and the appellant has met the required standards to ensure that residential amenity has been protected, there was no sound reason to refuse the application.

Throughout the ROH there is a recurring theme, namely that the presence of this hot food takeaway will be detrimental to residential amenity and historic character yet nowhere is there any explanation as to why this would be the case. How would the hot food takeaway be detrimental? How would residential amenity be affected? The decision to refuse was based on nothing more than unsubstantiated and stereotypical opinions which lack any substance. While opinions may carry some persuasion, facts carry authority and the fact remains that there is no evidence that the hot food takeaway would be a problem of any kind

The same is true of the character of the listed building and the Conservation Area. Indeed the ROH accepts that there will be no visible change to the property yet still insists that the proposal will have a detrimental impact on both. It requires a remarkable stretch of the imagination to understand how a proposal which does not involve any visible or physical change to the building will be detrimental to the building and the conservation area!

As stated at the outset, in a tenemental area the only place where non residential uses can be accommodated which is where they were always intended to be, is on the ground floor of these buildings

hence the range of policies and guidance aimed at ensuring that where any problem with residential amenity might exist, they can be addressed by meeting the requirements of these policies.

If the “twenty minute neighbourhood” is to be achievable and have any value then hot food takeaways , given their popularity , must be accommodated ,always subject to complying with the aforementioned policies.

The proposed development addressed all the relevant requirements and incorporated a range of measures to ensure that residential amenity was not impugned and accordingly, should have been approved.

It is not sufficient for the case officer to simply state that the proposal will impact negatively on residential areas or that it will be detrimental to the character of the Conservation Area. Simply saying it is so does not make it so , it has to be shown to be the case, and no evidence has been produced which would support these contentions. On the contrary the proposed development incorporates a range of measures to ensure that the community can enjoy the ability to access this hot food takeaway with no adverse impact on the building or the neighbourhood.

From all of the above, it is clear that the proposed development can be assimilated into the fabric of the area with no impact on either residential amenity or be detrimental to the listed building or the Conservation Area

In the absence of any evidence to the contrary the application should have been approved.

In the circumstances we would ask that this appeal against the refusal of planning permission be upheld and the application be approved.

bennett *Developments and Consulting*
23.1.2025