

REPORT OF HANDLING FOR APPLICATION 24/01822/FUL

ADDRESS	240 Albert Drive Glasgow G41 2NL	Item 3 15th April 2025
PROPOSAL	Use of premises (Class 1A) as cafe (Class 3)	

DATE OF ADVERT	<p>Site Notice (LBA, Conservation, Affect LB/Con) Posted 9 August 2024</p> <p>Adverts (LBA, Conservation, Affect LB/Con) Evening Times – published 9 August 2024 Edinburgh Gazette – published 9 August 2024</p>
NO OF REPRESENTATIONS AND SUMMARY OF ISSUES RAISED	<p>30 neighbours notification letters were issued to neighbouring properties, no neighbour land sites were notified, and the application was included on the Weekly List of Applications.</p> <p>Five representations were received – one objection, two neutral (with points of support and objection raised), and two in support.</p> <p>The following material objections were raised:</p> <p><u>Support</u></p> <ul style="list-style-type: none"> • General support of property being used as café and community hub, subject to the protection of residential amenity and the amenity of the area from increased littering, noise, activity, parking, and cooking fumes issues. • Retention of, and no external works to, the exterior of the property. • Conversion of the vacant unit into a use which has an active frontage and which will attract locals and visitors to the area with the benefit of increasing economic activity. <p><u>Objection</u></p> <ul style="list-style-type: none"> • Noise from operation and visitors resulting in loss of residential amenity for flats in the tenement building. • Inappropriate extended hours of operation (stated in submitted Planning Statement as 8am to 11pm every day) given the close proximity to residential properties. • Insufficient information submitted about the proposed method of cooking and the treatment and disposal of cooking/heating fumes. • Litter and improper waste storage, attracting pests and detrimental to residential amenity and the amenity of the area. • Insufficient parking for the additional use and increased parking and double-parking on Albert Drive which cause traffic flow and safety issues. <p>In addition to the above, the following non-material points were raised:</p> <ul style="list-style-type: none"> • The proposed internal works will conceal recently discovered original interior architectural features of value, including: mostly intact plasterwork corning and two embossed cast-iron columns. The representation makes reference to the property being within a listed building but this is not correct. The application property is in an unlisted building and, unfortunately, there is no requirement in planning policy to retain or protect interior architectural features of value. • The applicant's interior design consultants, Arch Interiors, submitted a representation which explains the design aims of their contribution to the

	<p>proposal. While this is additional information, this representation does not raise any points of material consideration.</p> <p>The above material points are considered in the assessment below.</p>
PARTIES CONSULTED AND RESPONSES	None
PRE-APPLICATION COMMENTS	<p>The applicant and agent did not seek pre-application advice or discussions with Glasgow City Council prior to submission of this application. Therefore, the case officer was unable to provide advice on whether the proposed development complied with the relevant Policy and Guidance of NPF4 and the City Development Plan.</p> <p>The Council has formalised the means for obtaining pre-application advice of this type in order to make this stage of the Planning process more accessible and efficient for applicants, agents and Planning staff. The Council welcomes pre-application discussions between the applicant, their agent(s) and its planning staff in advance of making an application for any scale of development. As stated above, the agent and applicant failed to avail themselves of this service.</p>

EIA – MAIN ISSUES	None
CONSERVATION (NATURAL HABITATS ETC) REGS 1994 – MAIN ISSUES	Not applicable
DESIGN OR DESIGN/ACCESS STATEMENT – MAIN ISSUES	Not applicable.
IMPACT/POTENTIAL IMPACT STATEMENTS – MAIN ISSUES	Not applicable
S75 AGREEMENT SUMMARY	Not applicable
DETAILS OF DIRECTION UNDER REGS 30/31/32	Not applicable
NPF4 POLICIES	<p>The National Planning Framework 4 (NPF4) is the national spatial strategy for Scotland up to 2045. Unlike previous national planning documents, the NPF4 is part of the statutory Development Plan and Glasgow City Council as planning authority must assess all proposed development against its policies. The following policies are considered relevant to the application:</p> <p>Policy 1: Tackling the Climate and Nature Crises</p> <p>Policy 2: Climate Mitigation and Adaptation</p> <p>Policy 7: Historic Assets and Places</p> <p>Policy 12: Zero Waste</p> <p>Policy 13: Sustainable Transport</p> <p>Policy 14: Design, Quality and Place</p> <p>Policy 23: Health and Safety</p> <p>Policy 27: City, Town, Local and Commercial Centres</p>

CITY DEVELOPMENT PLAN POLICIES	CDP1 and SG1 (Part 2): The Placemaking Principle CDP4 and SG4: Network of Centres CDP9 and SG9: Historic Environment CDP11 and SG11: Sustainable Transport
OTHER MATERIAL CONSIDERATIONS	The East Pollokshields Conservation Area Appraisal
REASON FOR DECISION	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.

	COMMENTS
PLANNING HISTORY	<p>Extensive applications relating to advertisement and signage from previous use as the Bank of Scotland. Recent relevant planning history is:</p> <p>Ref: 24/00820/FUL</p> <p>Description: Use of vacant bank (Class 1A) as restaurant (Class 3), and erection of flue extract to rear.</p> <p>Decision: Withdrawn After Validation</p> <p>The above application was withdrawn by the applicant (via the agent) as a result of discussions and pressure from the community and community groups to remove the proposed extraction flue on the rear elevation of the unit. This is notable in this assessment as it indicates an understanding by the applicant that a flue is required but that a flue in this location is not appropriate and will not be granted planning permission.</p>
SITE VISITS (DATES)	29 August 2024
SITING	<p>The application property is the ground floor commercial unit of the three storey traditional sandstone tenement on the corner of Albert Drive and Keir Street. The tenement is an unlisted building. It is within the designated Albert Drive Local Town Centre, the designated East Pollokshields Conservation Area, and within Ward 6 – Pollokshields.</p> <p>The application property was occupied by Bank of Scotland (formerly Class 2, now Class 1A) until it was made vacant in 2023. Marketing of the property commenced on 10 August 2023, and the agent confirmed in email that the applicants “took over the premises” in February 2024.</p>
DESIGN AND MATERIALS	<p>The proposed development comprises the change of use of the property from Class 1A to Class 3 (sealed unit cooking).</p> <p>Design</p> <p>There are no external works proposed within this application.</p> <p>All works shown on the submitted drawings are internal and, as such, are not the subject of the planning permission as the property is an unlisted building.</p> <p>No new floorspace is being created through the proposed development.</p> <p>The proposed cooking equipment is specified via an email from the agent as:</p> <ol style="list-style-type: none"> 1) Air Fryer-Lighfry LF18EHC-400VHigh capacity Air Fryer 2) Electric Oven-Turbochef 15-Ventless oven/microwave <p>No external extraction is proposed, and the proposal description specifies the cooking equipment as sealed unit cooking.</p> <p>The proposed hours of operation are stated in the Planning Statement as 8am – 11pm Monday – Sunday (every day). In discussion with the agent, it was indicated that the</p>

	<p>applicant was willing to revise the hours of operation to be 10am – 11pm Monday – Sunday (every day).</p> <p>There has been an ongoing discussion about the identified “retail” element of the proposed development as described on the submitted application form as – “property to have element of retail use, takeaway desserts.” Further information has not been forthcoming from the agent / applicant about the proportion of the business that would be takeaway desserts, where the takeaway desserts would be located within the premises, and if there will be other takeaway food items from the menu that are prepared and packaged on site for sale and/or sold on an on demand-basis. The officer has asked for further information on these points to provide comfort that the Class 3 change of use will not be at risk of becoming a composite Class 3 / hot food takeaway business. It remains an open question and as such must be assessed using the limited submitted information.</p>
DAYLIGHT	Not applicable to this application.
ASPECT	Not applicable to this application.
PRIVACY	Not applicable to this application.
ADJACENT LEVELS	Not applicable to this application.
LANDSCAPING (INCLUDING GARDEN GROUND)	Not applicable to this application.
ACCESS AND PARKING	<p>Access to the application property remains unchanged.</p> <p>The application property is within an area of High Accessibility for public transport, as defined in SG11 paragraph 6.9, and within the designated Albert Drive Local Town Centre, as defined in SG4 paragraphs 2.10, 2.11 and Table 3 – Local Town Centres.</p> <p>There is no proposed change to vehicle parking for the site. No off-site provision exists, and no off-street provision is proposed. While it is noted that the surrounding area does have ongoing parking issues as raised by representations made to this application and in consultations made to the Liveable Neighbourhoods programme project for Pollokshields East to Gorbals which focuses on Albert Drive, the continued use of on-street parking for visitors and employees to the application property is appropriate and compliant with the SG11 maximum vehicle parking standards as set out in Table 3.3 and 3.4 for the existing and proposed use.</p> <p>A revised drawing, Proposals as 236 Albert Drive, Glasgow, G41 2NL (dwg no. 32028/13a), shows the inclusion of cycle parking for 4 bikes on the basement floor plan of the application property. This meets the SG11 minimum cycle parking standard requirement of 1 space for staff cycle parking and facilities.</p> <p>The proposal generally complies with SG11 and as such also complies with SG4 Assessment Guideline 13: Parking and Servicing Requirements.</p>
SITE CONSTRAINTS	The site is within the East Pollokshields Conservation Area.
OTHER COMMENTS	<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>Under the terms of Section 64 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, the Council is required to have special regard to any buildings or other land in a Conservation Area, including the desirability of preserving or enhancing the character or appearance of that area.</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>

- b) whether the proposal preserves or enhances the character or appearance of the Conservation Area;
- c) whether any other material considerations (including objections and supplementary guidance) have been satisfactorily addressed.

Each development proposal will be considered on its individual merits and must respond to its setting appropriately to ensure protection and enhancement of amenity in the area.

In respect of (a) and (b), the Development Plan comprises the National Planning Framework 4 adopted 13th February 2023 and the Glasgow City Development Plan adopted on the 29th March 2017.

The proposed development complies with **Policies 1 and 2** of NPF4 as the change of use to a restaurant in a Local Town Centre and in an established urban area of the city with high accessibility to public transport is consistent with compact urban growth.

Policy 7 of NPF4 is similar in its intent as **CDP9 and SG9** of the CDP in that these policies aim to protect and enhance the historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. This includes works to unlisted buildings within Conservation Areas.

Policy 7 (d) states that

“Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include:

- i. architectural and historic character of the area;*
- ii. existing density, built form and layout; and,*
- iii. context and siting, quality of design and suitable materials.”*

SG9 paragraph 2.17 requires:

“Proposals for alterations, or extensions, to unlisted buildings in Conservation Areas must:

- a) respect and complement the period, style and architectural character of the building;*
- b) in the case of extensions, be subservient to the existing building in scale, height, massing and protect its proportions and setting;*
- c) follow the further detailed guidance contained in this SG for repairs, alterations and extensions;*
- d) avoid the loss of existing traditional features of value; and*
- e) not erode the character of the building or Conservation Area by the use of inappropriate design details or poor quality materials (developers/applicants should seek advice on materials from the Council).”*

Assessment – the application property has a long history as a commercial unit and, over the past 20 years, as a Bank of Scotland branch. As it is within an unlisted building, the details of the internal works are not defined as development and do not require planning permission. The drawings do serve to demonstrate the extent of public floorspace area versus back of house floorspace area, and the revised floorplans drawing includes internal secure cycle parking in compliance with SG11 as explained in the Access and Parking section above. No external works are shown or proposed in this planning application. The development is specifically the change of use.

As such, the proposed development does preserve the character and appearance of East Pollokshields Conservation Area in compliance with Policy 7 (d) and SG9 paragraph 2.17.

Policy 12 is similar in its intent to **CDP4 and SG4** with regards to waste management for Class 3 proposals.

Policy 12 (c) states that:

“Development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed including:

- i. provision to maximise waste reduction and waste separation at source, and*
- ii. measures to minimise the cross-contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities”*

SG4 Assessment Guideline 14: Waste Management and Disposal states that:

“Proposals for food, drink and entertainment uses will only be considered favourable 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.”

Assessment – the proposed development does not include sufficient details of waste storage and management, specifically with consideration to Policy 12.

If the recommendation is to grant permission for this application subject to conditions, further details of the waste storage and management would be required subject to strict conditions.

Policy 13, CDP4 and SG4, and CDP11 and SG11 aim to ensure all proposal developments deliver appropriate sustainable transport, including Class 3 developments within designated Local Town Centres.

Policy 13 states that:

“Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- iv. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking”*

SG4 Assessment Guideline 13: Parking and Servicing Requirements states that:

“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.”

Assessment – the relevant policies in SG11 and SG4 Assessment Guideline 13: Parking and Servicing Requirements are assessed in the Access and Parking section above. In summary, no off-street vehicle parking facilities are proposed, however, the development is located in a High Accessibility public transport area. The continued use of existing on-street parking is appropriate and complies with SG11. On-street secure cycle parking exists on the adopted public pavement and can be used to meet the minimum cycle parking standard for visitor cycle parking. The revised floorplans drawing shows internal secure cycle parking spaces to meet the minimum cycle parking standard for staff cycle parking.

The proposed change of use accords with Policy 13, SG4 Assessment Guideline 13, and SG11.

Policies 14 and 23 of NPF and **CDP1 and SG1 (Part 2)** share the same objectives to promote quality spaces, places and environments through well designed development that uses a design-led approach that applies the Place Principle. Furthermore these policies explicitly state that development which is detrimental to the visual and residential amenity of a site and the surrounding area, or detrimental to the health and wellbeing of people and places, will not be supported. This applies to change of use proposals where the new use may detract from the residential amenity of existing residential properties, like in this application.

Policy 14 (c) requires that:

“Development proposals that 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.”

Policy 23 (e) states that:

“Development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.”

SG1 (Part 2) paragraph 3.11 states that for chillers, air conditioning units, flues:

- a) *“external fittings such as air conditioning units should be located out of sight of public view, on rear/side elevations, concealed on a roof, or in back yards;*
- b) *within residential buildings, units should be located to minimise noise and vibration. In general units should be located away from any residential window; and*
- c) *the title deeds of a tenemental property, or other building, may require that the agreement of other owners be obtained before any structure is fitted to a wall in common ownership. Any grant of planning permission does not remove this obligation, which is a separate legal matter.”*

Assessment – the change of use is likely to be detrimental to the residential amenity of the adjacent flats in the tenement building, above the unit on the first floor and to the north of the unit on the ground floor level facing onto Keir Street.

The environmental health officer consulted on this application concluded that a noise impact assessment is required prior to the determination of this application to assess the impact of noise and vibration from the operation of the Class 3 use on the noise-sensitive receptor uses, i.e. the adjacent residential flats identified above and the ground floor flat to the north on Keir Street. A noise impact assessment was not submitted as a supporting document with this application and, as made clear in the consultation response, should be submitted prior to determination and not specified as a condition.

The environmental health officer also concluded that the proposed sealed unit (or enclosed) cooking equipment, as stated in the Design and Materials section above, is not sufficient for this Class 3 use. The officer states that cooking equipment and an attached mechanical ventilation system which includes an externally mounted high level flue that terminates at a minimum of 1m above the eaves of the roof is required to meet environmental health standards, to a standard as set out in SG4 Assessment Guideline 12 (assessed below). SG1 (Part 2) paragraph 3.11 goes on to specify that any proposed flue should be on the rear or side elevation, out of public view, and must be sited on the building elevation to minimise noise and vibration and to be away from residential windows.

It is not possible to find a location on the application property and the tenement building which would comply with the requirements of SG1 (Part 2) paragraph 3.11 and the technical requirements of the required flue as set out by the environmental health officer due to: the shape of the property, its location within the building and within the East Pollokshields Conservation, and the very minimal rear elevation space available which is further limited by the presence of residential windows on that elevation.

The technical requirement for a flue to allow a Class 3 use to operate in the application property is a constraint that cannot be reasonably overcome with significant loss of residential amenity to the flats within the tenement building.

Moreover, the proposed hours of operation being from 8am to 11pm every day are excessive and the sheer duration of noise and the cumulative noise disturbance from operational activity (cooking equipment, music, cleaning) and customer presence throughout the day and evening is likely to result in the loss of residential amenity for the adjacent flats.

The proposed development is significantly contrary to Policy 14, Policy 23, CDP1 and SG1 (Part 2) due to the loss of residential amenity and potential harm to the health and wellbeing of current and future residents.

Policy 27 is similar in its intent to **CDP4** and **SG4** with regards to facilitate appropriate development within designated city and town centres, using the Town Centre First approach to help these centres adapt positively to long-term economic, environmental and societal changes, and by encouraging town centre living. Appropriate development protects and enhances the character and amenity of existing uses, including residential amenity of properties and the health and wellbeing of the community.

Policy 27 (a) states that:

“Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported.”

Policy 27 (c) qualifies this general support by stating that:

“Development proposals for non-retail uses will not be supported if further provision of these services will undermine the character and amenity of the area or the health and wellbeing of communities, particularly in disadvantaged areas. These uses include:

- i. Hot food takeaways, including permanently sited vans;*
- ii. Betting offices; and*
- iii. High interest money lending premises.”*

SG4 paragraphs 2.10 and 2.11, and Table 3 – Local Town Centres, confirms that Albert Drive is a designated Local Town Centre. The principal aim of Local Town Centres is to provide a primary retail shopping function by utilising the compact urban form, typically a high street and tenements with ground floor commercial and residential above, and dense local population to support retail. Non-retail uses including Class 3 are secondary uses and their introduction to a centre through the change of use of existing retail units must *“not undermine the shopping function or overall health of the centre.”*

SG4 Assessment Guideline 5: Proposed Non-Retail Uses within Local Town Centres requires that:

“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 f 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 f 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 the 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).*
- d) The loss of an operating retail unit, where there are vacant units in a Centre, will normally be resisted.*

Note:

For **food, drink and entertainment uses**, refer also to Assessment Guidelines 10-14.

* All calculations should include vacant units.

** 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 relevant criteria in SG4 Assessment Guideline 10: Food, Drink and Entertainment Uses requires that:

"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. ...*

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.

** In all calculations of the proportion, the Council will include any use which incorporates a hot food takeaway service and any unimplemented planning permissions for changes of use to hot food shop, public house, or Class 3 use, likely to include a hot food takeaway service."*

SG4 Assessment Guideline 12: Treating and Disposal of Cooking/Heating Fumes requires that:

- 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. Note: The title deeds of a tenemental property, or other building, may require that the agreement of other owners be obtained before a new internal or external flue can be installed. Any grant of planning permission does not remove this obligation, which is a separate legal matter."*

Assessment – the proposed change of use from Class 1A to a café in Class 3 with sealed unit cooking of this specific property is significantly contrary to Policy 27, CDP4 and SG4.

The proposal is contrary to Policy 27 (c) as the change of use to this non-retail Class 3 use – specifically a dessert cafe with sealed unit cooking – will likely *"undermine the character and amenity of the area"*. It is also contrary to SG4 paragraph 2.11 which requires that *"[i]t is important however, that [non-Class 1A uses] introduction does not undermine the shopping function or overall health of the Centre."* As identified above, the proposed change of use will specifically lead to a further loss of residential amenity for the adjacent residential flats above and to the north of the unit. This loss of amenity does not outweigh the general support stated in Policy 27 (a) and SG4 paragraph 2.11 and Table 3 – Local Town Centres.

The proposal is contrary to SG4 Assessment Guideline 5 (b). There are six commercial units in this street block of Albert Drive – three are active Class 1A use, two are vacant Class 1A use (one of which is the application property), and one is active Sui Generis (hot food takeaway) use. This has been confirmed through officer site visits and in the Albert Drive Retail Survey 2024. If this application was granted, four out of six units or 66.67% of the street block would be Class 1A and two out of six units or 33.33% would be non-Class 1A uses. The addition of a non-Class 1A food or drink use surpasses the stated 70% threshold and requires more justification that the new use will not undermine the character and vitality of the designated Local Town Centre's primary function as a retail location. The proposal does not meet the required compliance with Assessment Guideline 5 (a)(i) and 5 (a)(ii), and therefore does not comply with 5 (b). The proposal is considered likely to undermine the primary retail function. And again, as demonstrated above, the change of use would have an unacceptable effect on the residential amenity of adjacent flats. Albert Drive Local Town Centre does not have a long-term pattern of vacant units as defined in 5 (c).

The proposal is contrary to SG4 Assessment Guideline 10 (a)(i) as it will *"result in a detrimental effect on the amenity of residents through the effects of increased noise, activity and/or cooking fumes"*, and to SG4 Assessment Guideline 12. This is demonstrated by the limited supporting information to justify otherwise and by the Environmental Health officer's requirement of such information being submitted prior to a decision and not be conditioned. For the avoidance of doubt the planning authority is not satisfied that the proposed sealed unit cooking equipment will sufficiently contain cooking odours and noise for a Class 3 use. As assessed above, the type external flue required will not be granted permission and is a technical constraint. The hours of operation are excessive and without sufficient noise mitigation and control will lead to cumulative noise disturbance which will be detrimental to residential amenity and to the health and wellbeing of current and future residents.

Officer Conclusion

	<p>On balance, the likely detrimental impact on the residential amenity of current and future residents in the adjacent flats outweighs the potential positive contribution to the vitality of the Albert Drive Town Centre. There are not long-standing vacancies (as defined by SG4) in this street block or in the wider town centre that would justify the need for this Class 3 use to be granted permission in this specific unit. With the recent expansion of permitted development for change of uses and the broadening of uses through the creation of Class 1A, the unit although currently vacant is likely to attract and accommodate a range of retail and other non-retail uses which would maintain the residential amenity of the flatted properties in the tenement building.</p> <p>In respect of (a) and (b), the proposed development is in not accordance with the statutory Development Plan. It is contrary to NPF4 Policies 14 (c), 23 and 27 (c), and it is contrary to SG1 (Part 2) paragraph 3.11 and SG4 paragraph 2.11, Table 3, and Assessment Guidelines 5, 10, 12 and 14.</p> <p>Regarding part (c), five representations were received (one objection, two supporting, two neutral / mixed). The applicant claims that as a dessert café the intended use would not result in excessive cooking, fumes or noise from their operation. However there is no specific definition in the Use Classes Order that specifically defines a dessert café, therefore this assessment is based purely on the proposed use being Class 3 (Food and Drink) which could range from a dessert café to a full restaurant which could require more forms of open cooking. It is considered unreasonable and unenforceable to apply conditions that restrict the level and type of cooking, nor would it be suitable to provide a personal consent based on this being operated by the applicant as a dessert café. Again, this type of control cannot be enforced. In order for this use to operate appropriately and in compliance with how all Class 3 applications are assessed the applicant must be able to provide a full ventilation system to eaves level. Other forms of filtration, such as carbon filters, are again through the experience of Environmental Health not an appropriate solution due to the cost and frequency of maintenance required. Based on the assessment above and comments received there are no further material considerations which would justify the application is granted planning permission.</p> <p>It is recommended that this full planning permission application be refused.</p>
RECOMMENDATION	Refuse

Date	28 October 2024	DM Officer	Lauren Springfield
Date	<u>08/11/2024</u>	DM Manager	Ross Middleton

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 development is contrary to NPF4 Policy 14: Design, Quality and Place, Policy 23: Health and Safety, and Policy 27: City, Local and Commercial Centres, and it is contrary to City Development Plan Policies CDP1 and SG1 (Part 2): The Placemaking Principle, and CDP4 and SG4: Network of Centres, and there is no overriding reason to depart therefrom.
03. The proposed development is contrary to NPF4 Policy 14, Policy 23, Policy 27, CDP1 and SG1 (Part 2), and CDP4 and SG4 in that the use of the property as a café Class 3 would result in a significant loss of residential amenity of the adjacent residential flats above the unit and north of the unit through the effects of increased noise, activity and/or cooking fumes.
04. The proposed development is contrary to NPF4 Policy 27 and CDP4 and SG4 in that the use of the property as a café Class 3 (sealed unit cooking) would result in an overconcentration of non-Class 1A food or drink uses within this street block, at 33.33% or four out of six units, and as such would negatively impact on the vitality and character of the Local Town Centre and undermine its primary retail function.

Refused Drawing(s)

The development has been refused in relation to the following drawing(s):

01. 32028/LA LOCATION PLAN Received 18 July 2024
02. 32028/11A SITE PLAN Received 18 July 2024
03. 32028/13A PROPOSED FLOOR PLANS Received 19 September 2024