



## Item 6

15th April 2025

Planning Services 231 George Street GLASGOW G1 1RX Tel: 0141 287 8555 Email: [onlineplanning@glasgow.gov.uk](mailto: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 100693781-001

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:	bennett Developments and Consulting		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Don	Building Name:	
Last Name: *	Bennett	Building Number:	10
Telephone Number: *		Address 1 (Street): *	Park Court
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Glasgow
Fax Number:		Country: *	UK
		Postcode: *	G46 7PB
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"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="236"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Albert Drive"/>
Company/Organisation	<input type="text" value="Chillicious Cafe&amp; Desserts"/>	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="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="G41 2NL"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## 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="240 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 2NL"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="663380"/>	Easting	<input type="text" value="257698"/>
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## 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)

Change of Use of Existing Vacant Bank to Form Specialist Dessert Bar

## 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 Planning Officer to understand the proposal

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, Planning Statement, Decision Notice, Report of Handling, Application Form, Plans, Images.

## Application Details

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

24/01822/FUL

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

18/07/2024

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

08/11/2024

## 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: 03/12/2024

**bennett** *Developments and Consulting,*  
10 Park Court,  
Glasgow, G46 7PB  
don@bennettgroup.co.uk

## **STATEMENT OF APPEAL**

2.12.2024

**236 ALBERT DRIVE, GLASGOW G41 2NL**

**APPEAL TO GLASGOW CITY COUNCIL LOCAL REVIEW COMMITTEE AGAINST THE REFUSAL OF PLANNING  
CONSENT FOR WORKS AT THE ABOVE ADDRESS**

**PLANNING APPLICATION REF: 24/01822/FUL**

### **01** Background:

The property at 236 Albert Drive, not 240 as the planning officer has mistakenly described the property, occupies a corner site formed by Albert Drive and Keir Street. Occupying the ground floor of a 3 storey sandstone tenement, it was originally a bank, latterly a branch of Bank of Scotland. This use ceased in 2023 and the property was purchased by the appellant with the intention of forming an eating outlet. Initially the idea was for a dessert/burger bar with external flue at rear and an application (24/00820/FUL) for these uses was lodged. In subsequent discussions with the local community and amenity groups, while the proposed use was generally acceptable the erection of a flue which was necessary as the burger element would require conventional open cooking equipment, necessitating an external flue on the rear wall of the building, was not. After discussion, the appellant withdrew the application.

Having regard to the views of the community the appellant resubmitted an application for a specialist dessert bar with a menu solely related to desserts which would **not** require an external flue to be fitted to the rear of the building, as the sealed cooking equipment proposed for the dessert bar would not require any external flue. Again meetings were held on site with community and amenity groups who were favourably disposed to the proposed use. This application (24/01822/FUL) was lodged on 18/7/2024 with every hope that it would be approved. The submitted images illustrated quite clearly the sort of venue that was being proposed with a strong desserts based theme.

### **02** Reasons for Refusal

Contrary to the appellants hopes and despite engaging with the community, on 8/11/2024 the application was refused, the reasons being:

**01.**The proposal was not in accord with the City Development Plan(CDP) and there were no material considerations which outweighed this consideration

**02.**The proposed development was contrary to **NPF4:**

Policy 14-Design Design,Quality and Place

Policy 23- Health and Safety:

Policy 27- City, Town, Local and Commercial Centres

and **City Development Plan(CDP):**

Policies CDP1/SG1(Part 2)- The Placemaking Principle

Policies CDP4/SG4-Network of Centres

**03.**The proposed development is contrary to **NPF4:**

Policy14- Design, Quality and Place

Policy 23- Health and Safety

Policy 27-City, Town Local and Commercial Centres

and **City Development Plan(CDP):**

Policy CDP1/SG1(Part 2)

Policy CDP4/SG4

In that the use of the property as a café would result in significant loss of residential amenity of the adjacent residential flats above the unit and north of the unit through increased noise, activity and/or cooking fumes.

**04.**The proposed development is contrary to **NPF4**and the **CDP**

Policy 27-

CDP4/SG4\_

In that the use of the property as a Class3 (sealed cooking) would result in an over concentration of non Class1A food or drink uses within the 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.

As can be seen, there is a great deal of repetition/duplication both between the stated reasons and also between the policies within NPF4 and the CDP.

In essence, **NPF4:** Policies14,23 and 27 duplicate those of **CDP:** Policies CDP1/SG1,and CDP4/SG4.

The view of the planning officer supported by those of env services is that this use in this building on this site would be detrimental to the amenity of the area. Collectively the aforementioned policies have been identified by the planning officer as the policies which it is alleged the proposed development fails to comply with and therefore to be refused.

**It should be noted that the description on the submitted Planning Application Form was for “Use of Vacant Bank as Specialist Dessert Bar”. With no prior discussion with the appellant or notification to**

the agent(Bennett Developments and Consulting )this was changed to read “*Use of premises(class 1A) as café(Class 3)*” Why this change was made has not been explained, but might explain the subsequent erroneous observations of the planning officer.

This change in the description and the use of the reference to Class 1A which broadly includes shops and financial services, fails to recognize that the premises in question was a bank and not in retail use, which is fundamental to the proper assessment of the proposal.

## 03 Response to Reasons for Refusal

In determining an application the planning officer is required to assess it in the context of the latest approved and adopted local development plan (LDP) and any other relevant legislation in particular National Planning Frameworks in this case NPF4. In addition the planning officer is required to produce a Report of Handling(ROH) which should contain a clear and competent justification and reasoning for the subsequent recommendation, in this case a refusal.

From the outset there seemed to be some problem in understanding the proposed use, seemingly confusing it with the withdrawn application, suggesting that it involved a hot food takeaway and that it was some sort of composite use. This lack of understanding of the proposal continued throughout the determination process, despite the appellants best endeavours, and was still in evidence one week before the application was refused when the appellant received an email advising that Env Services were objecting and claiming that the applicant had failed to provide a Noise Impact Assessment(NIA), something which had never been mentioned before and was frankly bizarre, given the café use.

It follows therefore that it is necessary to critically assess the ROH and the justification offered, against the stated policies and opinions/observations of the planning officer, to establish or dismiss the findings of the ROH and the subsequent refusal.

**It has to be pointed out, that in the main, the ROH contains a great deal of policy information which has no relevance to this application, relating as it does to a full scale class 3 restaurant use with external flue and open cooking equipment which this is not. This application is for a café/dessert bar.**

**Why the planning officer has made this error or persisted in doing so when advised otherwise, is a matter of concern.**

For ease of reference we will apply the section headings used in the ROH.

### COMMENTS:-

#### Page 3: Planning History

The planning officer quotes the previous application and the fact that it was withdrawn after validation. **That** application was for the Use of vacant bank(class 1A) as a restaurant (class 3) and erection of flue extract to rear.



However the planning officer seeks to claim that because that application was withdrawn due to the flue issue, that she is vindicated in claiming that therefore the appellant understood that a flue in this location was not appropriate and would not be granted planning permission. In making this claim the planning officer has failed to understand that the flue in question was **only** necessary for that proposed restaurant use in the withdrawn application which would involve open cooking, but was not necessary for the proposed specialist dessert bar which is the subject of this application, and would employ sealed cooking equipment with no need for open cooking.

#### **Page 4**

#### **Design and Materials**

This is another area where there appears has to be an unwillingness to understand that the application is for a simple straightforward specialist dessert bar. As with all such uses there is an element of retail and of customers being able to take foodstuffs away, just as is common in most restaurants . That does not constitute a hot food takeaway yet the planning officer persisted in insisting that it was!

In addition and because of this persistence, the appellant was asked for assurances that the use would not degenerate into a full blown hot food takeaway as part of a composite class 3/hot food takeaway and what proportion of the business would be takeaway desserts. In the first instance, no such assurances were sought and in any event a request such as “knowing the proportion of business etc” is simply ridiculous and would have had nothing to do with this proposal which as we constantly stressed is for a specialist dessert bar and not some other figment of the imagination.

This requirement to second guess how some other owner, at some point in the future may change the use is irrelevant and has no bearing on this application. Even if the circumstances of the use changed , legislation provides Enforcement powers to deal with such an eventuality, and to fail to understand this fact is again cause for concern.

#### **OTHER COMMENTS:**

#### **Page 6**

#### **Section SG4 Assessment Guideline 14: Waste Management and Disposal**

It is claimed that the application failed to provide any details on waste storage and management. This is untrue as the Planning Statement clearly states that.

*“ The proposed development makes provision for the storage of all waste materials within a designated store within the property. The refuse will only be placed outside for uplift at the appointed time by the appointed contractor, so problems with bins being left on the footpath and resultant litter will not arise”*

Short of identifying the contractor, which is the responsibility of the tenant ,what other information could have been provided?

It should be noted that the description provided by the appellant has been the standard, provided to and accepted by, both the planning service and env services over many years without objection, so it is unclear why there should be any difference in this case.

**Policy23(e) and SG1(Part 2)**

These policies relate to the need to ensure that development proposals that are likely to raise unacceptable noise issues will not be supported.

In fact the ROH makes even more exaggerated claims about potential noise suggesting that” *the proposed hours of operation, 8am-11pm is 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*”

All of the claims made under the above policies lack any credibility as they do not seem to relate to this proposal but to a use which is neither contained in the description on the Planning Application Form or referred to in any way in the Planning Statement. The hours of operation were explained but the offer to shorten the hours was offered. AS far as cooking noise that is simply foolish. There is little or no noise from air fryers, merry chefs and microwaves .Reference was also made to music noises, yet nowhere in the proposal was music equipment referred to or implied. Lastly cleaning?! There is little to add to this fictitious list.

As a result the planning officer claims that the application failed to contain sufficient information about items which were not part of the application in the first place and had no reason to be part of the application. In particular the extraction/flue system which the Env Services officer persists should have been part of the application, despite the proposed use serving nothing more than a fine range of quality desserts, the majority of which are cold.

Perhaps the most telling fact is the observations of env services who state that they do not support any type of extraction system other than that involving a large external pipe on the rear of a building, as more modern and efficient systems can be too costly to maintain. That is akin to saying that motor vehicles should not be permitted as they are too costly to maintain. When expressed in these terms the crassness of their position is exposed.

The reality is that this proposal is for a specialist dessert bar, which as has been stated previously the planning officer seems unable to comprehend. It is not for a class 3 restaurant or a hot food takeaway or other potentially nuisance use. This distinction was also lost on the env services officer who claimed that sealed cooking was insufficient for **this** class 3 use and would require a Noise Impact Assessment to assess the noise and vibrations from air conditioning plant and the extract flue! The env service officer offered no explanation or justification for dismissing sealed cooking which given that almost everything can be cooked in an air fryer which is a sealed system, seems rather odd.

Given that waffles and crepes are probably the only hot food being prepared the very idea that sealed cooking was unacceptable and would require the full ventilation/extraction system complete with external flue as required in a full scale restaurant is absurd and should not have been so readily supported by the planning officer.

The application is for nothing more than a specialist dessert bar, and as it is located within a local town centre as recognized and defined by CDP4/SG4-Network of Centres, and supported by NPF4 Policy27 City,Town Local and Commercial Centres, and thus a certain level of noise must be accepted.

It is claimed that the appellant failed to produce a Noise Impact Assessment (NIA) and states that this should have been submitted when the application was lodged. Given that the application was for a specialist dessert bar with sealed cooking with no extraction flue, there was no reason to produce such a report, and as such reports cost in the region of £1500-£2500 are not something which would be produced if not wholly necessary. As stated above there was little dialogue with the planning officer and what the appellant had was of limited value resulting in the appellant asking for a site meeting, a request which was ignored, rapidly followed by the decision to refuse. The one and only time the NIA was mentioned was prior to the application being refused!

Having ignored the opportunity to meet on site and hopefully clear up the amount of confusion, the planning officer concluded that the proposed development was contrary to the above policies, due to the loss of residential amenity and potential harm to the health and well being of current and future residents. A conclusion based on unsupported claims, about a proposed use which was not the subject of the application. In short a flawed and highly dubious conclusion of little merit.

#### **Pages 8 and 9 ,**

In the main these contain much detail about matters which do not relate to this proposal, and as has been stated repeatedly above, have no relevance to this modest proposal for a specialist dessert bar!

Of note however is the reference to **Policy SG4 – Local Town Centres**. This policy seeks to ensure that retail continues to be the primary use and that the change of use from retail to a non retail will not generally be supported. This is a policy which while laudable in its sentiments no longer reflects the role of retail as the majority of successful town centres are more diverse seeking to achieve a balance between a range of uses. To slavishly defend the retail use in the absence of any demand for such uses must be addressed, as it will result in a plethora of empty units and the loss of a community focus.

However in this instance, a point which seems to have been lost in the assessment, is that this proposal does not involve the loss of a retail use, but a bank, so to claim that the introduction of this new specialist dessert bar will impact on the primacy of retail is simply untrue. The reality is that while the main use will be a specialist dessert bar the proposal does refer to a small retail element which is illustrated in one of the submitted images, so no matter how this application is viewed, none of the claims expounded in the ROH have any merit or substance.

#### **Pages 10 and 11**

This is basically a pulling together of all that has been claimed elsewhere, including the errors therein.

In this section the planning officer reiterates that the change of use will impact on the residential amenity. This claim would be true if the proposed development was for a class 3 restaurant and flue, but it is not, it is for a modest specialist dessert bar with no external flue, so the claim is not supported by the facts.

It is also noted that the planning officer persists at doggedly claiming that the proposed use is for an entirely different operation and basing her objections on that mistaken notion. This is illustrated by comments such as *“will result in a detrimental effect on the amenity of the residents through the effects of increased noise, activity and/or cooking fumes”*. In the first instance, as has been stressed constantly, the application site is within a designated town centre, so some level of noise must be accepted as should some level of activity, secondly the operation will involve sealed equipment similar to the sort of equipment you would find in a domestic kitchen such as air fryers, which are virtually silent and do not emit odours.

The planning officer further claims that her views are vindicated by the *“limited supporting information”* and the fact that the env service officer requires that such information should be provided prior to a decision and not be conditioned!

This is yet another misplaced comment as the amount of information provided was exactly what was required for the proposed use. The fact that it may not have been sufficient for the fictitious use being imagined by both the planning officer and the env services officer is utterly irrelevant.

Further references are made to the need to protect retail ,with the planning officer stating that *“ The proposal is likely to undermine the primary retail function”* yet the proposal does not involve the loss of a retail unit so this is yet another unsubstantiated claim. It is further claimed that there is no pattern of vacancies in the town centre and that *“ the vacant bank will easily attract and accommodate a range of retail and other uses.”* This is an observation borne out of a lack of understanding of the current market. It also fails to understand what a potential retailer is looking for. In the first instance, the marketing of units such as banks always attracts potential class 3 type of uses/operators because the space is appropriate for these uses and they are usually in prime locations. To claim that the property will easily attract retail is an unsubstantiated opinion lacking any truth. In addition banks, by their very nature and need for security usually have a very high cill height and limited window area, as is the case in this instance. This configuration does not attract retail uses as the opportunity to display wares is limited. Non retail uses, normally class 3 uses usually do not make or require modifications to the exterior, as the main experience is culinary and experienced once inside. In this case this fine little corner property can be recycled for the benefit of the community and the new use become a destination and community meeting point injecting some life into this part of Albert Drive Town Centre which currently displays no indications of vitality and vigour. Indeed Albert Drive is a rather sad and uninviting place , even moreso after dark. This new venue will bring some vitality and life into this part of the street.

## 04 Conclusion

This change of use from a vacant bank to a modest but quality specialist dessert bar should have been embraced by the local authority, as recognizing investment in the area, a rates return to the city and the creation of job opportunities, yet it was rejected on a wholly inaccurate and inexplicably flawed interpretation of the proposal. A competent assessment of the proposal would also have recognized the cultural and ethnic aspect in providing an evening venue where the traditional habit of dining late and retiring to a café/dessert bar for pudding is commonplace.

Given that this part of the city is home to, we believe the largest Moslem population anywhere in Scotland, venues such as is being proposed, are fundamental to furthering diversity, multi culturalism, integrated communities and should be supported if the local authorities claims for inclusivity are to have any substance. Where other groups may frequent public houses, wine bars etc to meet and have discourse, the community here would frequent dessert bars for the same reasons. It will see a fine little building recycled, the creation of an appealing and attractive café venue and offer a quality destination for those seeking something that little bit more special by way of luxury desserts.

Contrary to the inaccurate and misleading views contained in the ROH, and the failure to assess the proposal against the appropriate policies, this change of use can be achieved with no impact on local amenity and in accordance with all the aforementioned policy guidance.

**In light of all of the foregoing it is evident that the proposed development was not properly assessed resulting in a flawed and unsafe decision, we would ask that the decision to refuse be overturned and the application approved.**

**bennett** *Developments and Consulting*  
2.12.2024