



Item 7

4th February 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 100687464-001

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:	Other	You must enter a Building Name or Number, or both: *	
Other Title:	other	Building Name:	
First Name: *	blank	Building Number:	17
Last Name: *	blank	Address 1 (Street): *	Sinclair Drive
Company/Organisation	SmokyZ	Address 2:	10 Park Court
Telephone Number: *		Town/City: *	Glasgow
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	G42 9PR
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:	Glasgow City Council
Full postal address of the site (including postcode where available):	
Address 1:	17 SINCLAIR DRIVE
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	GLASGOW
Post Code:	G42 9PR

Please identify/describe the location of the site or sites

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Northing	661595	Easting	258097
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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)

Use of cafe(Class 3) as hot food takeaway(Sui Generis) and replacement of flue to rear(retrospective)

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 properly assess 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 Decision Notice Report of Handling Application Form Planning Statement Drawings

Application Details

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

24/00725/FUL

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

16/05/2024

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

10/07/2024

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: 03/10/2024

PLANNING STATEMENT

1.10.2024

17 SINCLAIR DRIVE, GLASGOW, G42 9PR

**APPEAL TO GLASGOW CITY COUNCIL LOCAL REVIEW COMMITTEE AGAINST THE REFUSAL OF
PLANNING PERMISSION FOR THE CHANGE OF USE FROM CAFÉ TO HOT FOOD TAKEAWAY AT THE
ABOVE PREMISES.**

APPLICATION REF: 24/00725/FUL

01 Background:

The property at 17 Sinclair Drive occupies the ground floor of a four storey red sandstone tenement and is in a row of other commercial uses.

On 31/5/2024 (app Ref 23/00220/FUL) planning permission was granted for the subdivision of the larger class 3 unit into two class 3 units of which the application site is one. The existing café already has a flue on the rear wall though this is in a poor state of repair.

On 16/5/24 an application for planning permission(24/00725/FUL)was lodged for the change of use of the existing café to a hot food takeaway and replacement of the existing flue.

On 10/7/24 the application was refused.

02 Reasons for Refusal:

In refusing the application, the following reasons are cited:

- 01 The proposal was not in accord with the Development Plan and there were no material considerations which outweighed the proposals variance with the Development Plan.
- 02 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 reasons to depart therefrom.
- 03 The proposed development due to its location within and adjacent to residential amenity of the surrounding area is contrary to Policy 27 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 residential amenity is contrary to CDP4 Network of Centres and SG4 Network of Centres of the LDP as assessed above and there is no overriding reason to depart therefrom.

In essence the above reasons can be summarized as claiming that the proposed use is not acceptable in this location.

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 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 12 Zero Waste - It is accepted that particularly with proposals involving food products and waste that an efficient and proper waste management and disposal system must be in place. The ROH states that no details of waste collection were provided which is untrue.

The Planning Statement clearly states that waste will be stored within a dedicated waste facility and that bins will only be placed outside at the appointed time for uplift by the appointed contractor.

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

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 place- This policy includes the “six qualities of successful places” which are :

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 widow will help to generate sense of security and safety*

Pleasant: Supporting attractive natural and built spaces – *this group of units relies on its well being by having no empty units and in contributing to the range of goods and service in the area.*

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.*

Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to reinforce local identity.- *The fact that the unit will be occupied contributes to the local identity which is one of vibrancy and vitality.*

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 is well placed to contribute to all of the above.*

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 demonstrates this admirably.*

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.*

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 would appear that the planning officer has concluded that the proposed development, does not accord with these policies ,yet on closer scrutiny many of the requirements of these policies have indeed been met 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 in the Planning Statement and all have been accepted and stated as such within the ROH. The only issue outstanding appears to be the question of residential amenity which is a phrase 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. Nevermoreso than in inner city areas where there is a dense concentration of residential and non-residential and space is at a premium.

While recognizing that the site is within an area designated as Battlefield Town Centre, the comments within the Report of Handling(ROH) do not appear to reflect that fact. 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 staple food source in any neighbourhood.

The confusion arises in that the 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. The only other alternative being to construct new small groups of single storey units which is not going to happen. 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 Battlefield Town Centre 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 applicant 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 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.

As stated at the outset, in a tenemental area the only place where non residential uses can be accommodated 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 in busy neighbourhoods which are simply a fact of life, 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.

In the circumstances we would ask that the decision to refuse be overturned and the application approved.