



Glasgow City Council

Planning Local Review Committee

Report by Executive Director of Neighbourhoods, Regeneration
and Sustainability

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Item 1

4th February 2025

24/00199/LOCAL – 17 Sinclair Drive, Glasgow

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

Purpose of Report:

To provide the Committee with a summary of the relevant considerations in the
above review.

Recommendations:

That Committee consider the content of this report in coming to their decision.

Ward No(s): 07

Citywide: N/A

Local member(s) advised: Yes ☐ No ☐ consulted: Yes ☐ No ☐

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1 LOCATION AND DEVELOPMENT PLAN DESIGNATIONS

- 1.1 The proposal site is situated on the eastern side of Sinclair Drive, within a mid-terraced four-storey red sandstone tenement block. The ground floor of the block is largely in commercial use, with residential properties in the upper floors.
- 1.2 The site is located within the Battlefield Local Town Centre.
- 1.3 The site is located in an area of High Public Transport Accessibility.
- 1.4 The proposal is to change the use of a café (Class 3) unit to a hot food takeaway (Sui Generis). As a retrospective application, this change has already taken place.
- 1.5 The proposed opening hours of the takeaway are 10am – 11pm, Sunday to Thursday; and 10am – midnight, Friday and Saturday.
- 1.6 Externally, it is proposed to remove an existing flue (250mm diameter) and erect a new, larger flue (500mm diameter) onto the rear wall of the tenement building.

2. DEVELOPMENT PLAN POLICIES

- 2.1 NPF4 was adopted by the Scottish Ministers on 13 February 2023 and is part of the statutory Development Plan. Where there is an area of incompatibility it is expected that the newest policy document will take precedence, which will be NPF4 for the time being.

In this case, the relevant policies from NPF4 are:

- Policy 12: Zero waste
- Policy 13: Sustainable transport
- Policy 14: Design, quality and place
- Policy 27: City, town, local and commercial centres

- 2.2 The relevant City Development Plan policies are:

- CDP1: The Placemaking Principle
- CDP4: Network of Centres
- CDP11: Sustainable Transport

- 2.3 The relevant Supplementary Guidance is:

- SG1: The Placemaking Principle (Part 2)
- SG4: Network of Centres
- SG11: Sustainable Transport

3 REASONS FOR REFUSAL / RELEVANT CONDITION(S)

3.1 The reasons for refusal are set out below:

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, 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 the National Planning Framework 4 (adopted February 2023) 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 27 of the National Planning Framework 4 (adopted February 2023) 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 the corresponding Supplementary Guidance SG4: Network of Centres of the Glasgow City Development Plan (adopted March 2017) as assessed above, and there is no overriding reason to depart therefrom.

4 APPEAL STATEMENT

4.1 A summary of the material points raised in the appeal statement is given below.

01. It would appear that the planning officer has concluded that the proposed development does not accord with the policies, yet in the Report of Handling the requirements for waste management; sustainable transport; design, quality and space; odour extraction measures; hours of operation; and the six qualities of successful places have been accepted.
02. The only issue outstanding appears to be the question of residential amenity which is a phrase much abused and less easily defined.
03. 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.
04. 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.

05. 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.
06. 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.
07. The applicant has requested that the review be conducted by means of the review documents only. Where the Committee decides that the review documents do not provide sufficient information to make a decision, it is for the Committee to determine how further information may be obtained. This can either by means of further written submissions, the holding of one or more hearing sessions, or a site inspection, or a combination of these, as set out in the Local Review Regulations.

5 REPRESENTATIONS AND CONSULTATIONS

- 5.1 Three public representations were received to the application, all to object to the proposal. The points raised are:
- This is a retrospective application – the use and flue are already present;
 - The proposed use will result in increased noise, litter, traffic and disruption;
 - The flue reflects sunlight directly into habitable rooms;
 - The proposal is contrary to SG4, being located within or immediately adjacent to an existing residential building; and
 - A previous application for a takeaway at another premises was refused due to the impact on local residents.
- 5.2 There were two representations to this Review. The matters raised reiterated the previous comments and added the following points:
- Commercial uses of ground floor tenement units are of course part of the city’s make-up but development plans must also support the improvement of town centres for residents and priorities in health. A growing number of hot foot takeaways located on the ground floors of existing residential blocks is neither an effective nor sustainable way of doing that; and
 - There are nearby takeaways where they have no residential properties above.
- 5.3 No external consultations were required.

6 COMMITTEE CONSIDERATIONS

- 6.1 Committee should consider if the following are in accordance with NPF4, the relevant City Development Plan policies and Supplementary Guidance, and if

there are material considerations which outweigh the Development Plan considerations.

6.2 The following are the relevant policy considerations:

6.3 **NPF4 Policy 14 and CDP1: The Placemaking Principle/SG1: The Placemaking Principle (Part 2)**

NPF4 Policy Intent: To encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

The relevant policy guidance is:

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- b) Development proposals will be supported where they are consistent with the six qualities of successful places:
 - Healthy:** Supporting the prioritisation of women's safety and improving physical and mental health.
 - Pleasant:** Supporting attractive natural and built spaces.
 - Connected:** Supporting well connected networks that make moving around easy and reduce car dependency
 - Distinctive:** Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.
 - Sustainable:** Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.
 - Adaptable:** Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.Further details on delivering the six qualities of successful places are set out in Annex D.
- c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

CDP1 is an overarching policy which states that new development should encourage placemaking by being design-led, aspiring towards the highest standards of design while directing development to the right place. All development should respect and protect the City's heritage by responding to its qualities and character of its site and surroundings. Development should make the City an appealing place to live, work and visit for all members of society, providing high quality amenity to existing and new residents.

SG1 provides the following detailed guidance in relation to this proposal:

Alterations to Shops and Other Commercial Buildings

This guidance seeks to ensure that alterations to shops and other commercial buildings enhance the appearance of buildings and the street scene generally, respecting the historic character of the property, and cause no dis-amenity to neighbours as a result of noise, vibration, etc.

Proposals for alterations to shops and other commercial buildings should:

- a) respect the period, style and architectural character of the building; and
- c) not adversely affect residential amenity as a result of noise, vibration, etc.

Chiller/Air Conditioning Units/Flues - The following guidance applies:

- 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.

Committee should note:

- Externally, the only change proposed is the erection of a flue on the rear elevation, in compliance with policy.
- The proposal site is located below an existing residential unit.

Committee should consider whether:

- the change of use to Sui Generis would result in an unacceptable loss of residential amenity, particularly regarding noise, activity, and cooking fumes; and
- the proposal accords with the placemaking policies above, helping to create successful places.

6.4 NPF4 Policy 12: Zero Waste and CDP1/SG1: The Placemaking Principle - Waste Storage, Recycling and Collection

NPF4 Policy Intent: To encourage, promote and facilitate development that is consistent with the waste hierarchy.

The relevant policy guidance is:

- c) 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.

SG1 provides the following detailed guidance:

All new developments must include appropriate and well-designed provision for waste storage, recycling and collection. All waste/recycling areas must be located discreetly, so as to have no adverse visual impact or cause traffic/noise nuisance to neighbours. Applications must provide full details of the provision for waste storage, recycling and collection in the initial submission for planning permission.

Committee should note:

- The planning statement provided states there is 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. No waste storage area is indicated on the floor plan, contrary to policy.
- Committee should consider whether they are completely satisfied with the proposed waste/refuse management arrangements.

6.5 NPF4 Policy 27: City, town, local and commercial centres and CDP/SG4: Network of Centres

NPF4 Policy Intent: To encourage, promote and facilitate development in our city and town centres, recognising they are a national asset. This will be achieved by applying the Town Centre First approach to help centres adapt positively to long-term economic, environmental and societal changes, and by encouraging town centre living.

The relevant guidance is:

- a) 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.
- c) 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.

Committee should consider whether:

- The proposal will enhance and improve the vitality and viability of the town centre.
- The introduction of a hot food takeaway in this location would undermine the character and amenity of the area or the health and wellbeing of communities.

SG4 provides the following detailed guidance:

Food, Drink and Entertainment Uses

This section is relevant when assessing development proposals for the following uses: Class 3 (Food and Drink), Class 11 (Assembly and Leisure) and specific Sui Generis uses (including hot food shops, public houses and composite/hybrid uses). These will be referred to in the following guidance as food, drink and entertainment uses, unless the Use Class is specified.

The Council has to strike a balance between the encouragement of uses that make the City more vibrant, and the need to preserve a reasonable level of amenity for adjoining occupiers, particularly neighbouring residents. The following guidance therefore deals primarily with issues of amenity arising from food, drink and entertainment development proposals. Applicants must address both the Locational Guidance and Technical Guidance outlined below:

Assessment Guideline 10: Food, Drink and Entertainment Uses:

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.
 - (ii) Public houses, Class 11 and Sui Generis uses must not be located under new build residential development.
- c) Outwith the City Centre:
 - (i) Public houses, Class 11 and Sui Generis uses must not be located within, or immediately adjacent to, existing residential buildings.

(ii) Applications for extensions to existing public houses, Class 11 and Sui Generis uses must not increase the floorspace for public use under residential flats, or extend into residential backcourt areas.

(iii) Hours of operation will be agreed with the Planning Authority, based on local circumstances and the impact of the proposal on residential amenity, but shall not exceed 08:00 to 24:00 hours.

Committee should note:

- The site is located within the Battlefield Local Town Centre.
 - Less than 20% of the units on the street block are in use as a hot food shop, public house, or composite use, in compliance with policy.
 - The proposal site is located immediately below existing residential properties, contrary to policy.
 - The proposed hours of operation are 10am – 11pm, Sunday to Thursday; and 10am – midnight, Friday and Saturday. These accord with the policy.
- Committee should consider whether the proposed use, hours of operation, and proximity to residential units will have a negative impact on residential amenity.

Assessment Guideline 12: Treatment and Disposal of Cooking/Heating Fumes

- 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 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 fullest specification, when fitted at the application site. The 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.

- d) A suitably qualified engineer must undertake the design and installation of the ventilation system.

Committee should note:

- No details of the proposed cooking/heating methods have been provided, contrary to policy.
 - It is proposed to disperse fumes via a new flue, erected on the rear elevation of the property, in compliance with policy.
 - A specification of the flue has been provided, in compliance with policy.
 - No maintenance schedule has been provided, contrary to policy.
- Committee should consider whether they are completely satisfied with the arrangements for the dispersal of cooking fumes.

Assessment Guideline 14: Waste Management and Disposal

Proposals for food, drink and entertainment uses will only be considered favourably 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

Committee should note:

- The planning statement provided states there is 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. No waste storage area is indicated on the floor plan, contrary to policy.
- Committee should consider whether they are completely satisfied with the proposed waste/refuse management arrangements.

6.6 NPF4 Policy 13 and CDP11/SG11: Sustainable Transport

NPF4 Policy Intent: To encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

SG11 provides the following detailed guidance:

Cycle Parking

The Council shall require the provision of cycle parking, in line with the minimum cycle parking standards specified (below), as well as the following guidance:

- a) Wherever possible, employee cycle parking should be located within buildings or a secure compound. Where such a location is not feasible,

provision should be close to areas of high activity, such as the main entrance of development, to ensure cycling is encouraged through enhanced security provided by passive surveillance.

- f) Cycle parking should always be safe, sheltered and secure. The form of cycle parking provided should facilitate the securing of the frame of the bike to the "stand". "Sheffield" racks are a good, and preferred, example of such provision.
- g) Employment sites shall provide on-site showers, lockers, changing and drying facilities, as a means of promoting walking and cycling to work. These are important trip-end facilities that can positively affect an individual's decision to walk, run or cycle regularly.

Minimum standard for Public Houses, Restaurants, Cafes, Social Clubs, Licensed Clubs and Function Rooms:

Staff: 1 space per 10 staff

Customer: 1 space per 50sqm public floor area.

Committee should note:

- Policy does not specify a standard for Hot Food Takeaways, but the standards for Public Houses, Restaurants, Cafes, Social Clubs, Licensed Clubs and Function Rooms is considered the most appropriate.
- No cycle parking is proposed for either staff or customers, contrary to policy.
- Committee should consider whether the lack of cycle parking provision is justified in this case.

Vehicle Parking

Vehicle parking provision should be assessed against the standards set out below.

Restaurants, Cafes, Social Clubs, Licensed Clubs and Function Rooms:

High Accessibility: 2 spaces per 100sqm public floor area

Committee should note:

- Policy does not specify a standard for Hot Food Takeaways, but the standards for Public Houses, Restaurants, Cafes, Social Clubs, Licensed Clubs and Function Rooms is considered the most appropriate.
- The site is located within a High Public Transport Accessibility area.
- No vehicle parking is proposed.
- Committee should consider whether the lack of vehicle parking provision is justified in this case.

7 COMMITTEE DECISION

7.1 The options available to the Committee are:

- a. Grant planning permission, with the same or different conditions from those listed below; or
- b. Refuse planning permission.
- c. Continue the review to request further information.

8 Policy and Resource Implications

Resource Implications:

Financial: n/a

Legal: n/a

Personnel: n/a

Procurement: n/a

Council Strategic Plan: n/a

Equality and Socio-Economic Impacts:

Does the proposal support the Council's Equality Outcomes 2021-25? Please specify. n/a

What are the potential equality impacts as a result of this report? no significant impact

Please highlight if the policy/proposal will help address socio-economic disadvantage. n/a

Climate Impacts:

Does the proposal support any Climate n/a

Plan actions? Please specify:

What are the potential climate impacts as a result of this proposal? n/a

Will the proposal contribute to Glasgow's net zero carbon target? n/a

Privacy and Data Protection Impacts:

Are there any potential data protection impacts as a result of this report
N

If Yes, please confirm that a Data Protection Impact Assessment (DPIA) has been carried out

9 Recommendations

That Committee consider the content of this report in coming to their decision.