



Item 6

27th August 2024

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 100651007-004

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:	Geddes Consulting		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Alastair	Building Name:	Quadrant
Last Name: *	Bledowski	Building Number:	17
Telephone Number: *		Address 1 (Street): *	Bernard Street
Extension Number:		Address 2:	Leith
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH6 6PW
Email Address: *			
Is the applicant an individual or an organisation/corporate entity? *			
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> 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" value="Pavillion 2, First Floor"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Junction 24 Business Park"/>
Company/Organisation	<input type="text" value="Six Company"/>	Address 2:	<input type="text" value="363 Helen Street"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Glasgow"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="G51 3AD"/>
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="1132 ARGYLE STREET"/>
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="G3 8TD"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="665916"/>	Easting	<input type="text" value="257096"/>
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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 restaurant (Class 3) as restaurant (Class 3) with hot food takeaway (Sui Generis).

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.

See submitted Local Review Committee Appeal Statement.

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)

Please see submitted PA Documents List and SC Documents List.

Application Details

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

23/02748/FUL

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

08/11/2023

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

01/02/2024

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 Alastair Bledowski

Declaration Date: 03/04/2024

1132 Argyle Street
Local Review Committee Appeal Statement

On behalf of

SIX COMPANY

April 2024

Prepared by:



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Document Control and Approval

Status	Prepared	Approved	Date
Final	Alastair Bledowski	Stuart Salter	2 nd April 2024

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Contents

1.0	Introduction	1
2.0	Impact on the character of the area (Reason for Refusal 03)	4
3.0	Impact on the health and wellbeing of communities (Reason for Refusal 03)	6
4.0	Impact on residential amenity by noise, activity and fumes (Reasons for Refusal 04 and 06)	9
5.0	Over-concentration of uses (Reason for Refusal 05)	13
6.0	Cycling parking (Reason for Refusal 07)	19
7.0	Conclusions	20

1.0 Introduction

1.1 This *Local Review Committee Appeal Statement* (the Statement) has been prepared on behalf of Six Company (the Appellant). The purpose of this Statement is to support an Appeal to Glasgow City Council Local Review Committee (LRC) against the delegated decision taken by the Case Officer to refuse to grant Planning Permission (PP) (Ref: 23/02748/FUL) for the ... *Use of restaurant (Class 3) as restaurant (Class 3) with hot food takeaway (Sui Generis)* at 1132 Argyle Street, Glasgow.

1.2 This Statement sets out the case for the Appeal and concludes the Appeal should be upheld based on the evidence originally presented to the Council, now presented to the Local Review Body, subject to appropriate conditions.

Appeal Proposal

1.3 The Appeal proposal seeks a change of use from Class 3 (Food and Drink) to Class 3 (Food and Drink) with Sui Generis to include hot food takeaway. The proposed change of use is therefore the addition of the hot food takeaway function, ancillary to the extant Class 3 restaurant use at the premises. The restaurant use has existed under the current owner since 2017 (formerly trading as Six by Nico). Drawings reference AQ 23/001 A *Existing GA Plan* and AQ 23/002 A *Proposed GA Plan* show the existing and proposed changes to the existing restaurant (Documents PA 1.01 and PA 1.02 respectively).

1.4 This Appeal proposal relates to an operational change and requires the addition of Sui Generis hot food takeaway to the Class 3 Food and Drink offer. The property has been Class 3 (Food and Drink) since 2010.

1.5 The change of use will allow the current restaurant to change to an innovative and experimental fish restaurant with an ancillary takeaway. The proposal for the takeaway element is both functional and part of the theatrics of the dining experience in the main restaurant.

1.6 Diners at the restaurant will enter via the takeaway area, through a door hidden behind a fake fridge (as shown on Document PA 1.02 AQ 23/002 A *Proposed GA Plan*). The diners then enter a windowless restaurant area, hidden behind the fish and chip counter at the front. The proposal therefore plays on a speakeasy theme, adding a sense of adventure and mystery to the dining experience. In this regard then, the takeaway is both a functional takeaway for customers, but also an important element of the scene-setting for the dining experience.

1.7 The takeaway is an ancillary use of the property. The takeaway area will also serve as part of the main kitchen for the restaurant, located in broadly the same area of the property as the kitchen for the former Six by Nico restaurant.

1.8 There will be no outdoor seating. Other business requirements such as deliveries, collection of waste etc. will remain as existing.

1.9 The previous business hours for Six by Nico were 12pm to 11pm Tuesday to Sunday. This has been changed 16:45-23:00 Wednesday and Thursday, and 12:00-23:00 Friday to Sunday. The trading hours have therefore been reduced compared to the previous restaurant.

1.10 There will be 11 members of staff employed at the premises, operating in various shifts.

1.11 The site is located on Argyle Street, Glasgow, approximately 33m to the east of the junction of Derby Street and Kevinhaugh Street. It is situated towards the western end of Argyle Street (Finneston), along with other units in the block, between Derby Street and Kelvingrove Street.

- 1.12 The site is within a block consisting of restaurants, a café, laundrette and a public house, with residential properties above. The wider area known as Finneston is synonymous with eateries and contributes to Glasgow's evening economy.
- 1.13 The total floorspace is 157 sqm. The ground floor is 73 sqm and the basement, which is not accessible to the public, is 84 sqm.

Reasons for Refusal

- 1.14 The Decision Notice sets out seven Reasons for Refusal. There is a great deal of overlap between these reasons for refusal. Reasons 1 and 2 set out the overarching reasons for refusal against National Planning Framework 4 (NPF 4) (SC 1.01) and Local Development Plan (LDP) policies. These state:

- 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 development proposal is contrary to Policy 27 - City, Town, Local and Commercial Centres of the National Planning Framework 4, adopted 2023 and Policy CDP1 & SG1 Placemaking Principle, Policy CDP4 and SG4 Network of Centres, Policy CDP11 and SG11 Sustainable Transport of the Glasgow City Development Plan, adopted 2017 as specified below, and there is no overriding reason to depart therefrom.*

- 1.15 Reasons 3 to 7 set out specific comments regarding the policies listed in Reason for Refusal 02. Reasons 3 to 7 state:

- 03. By virtue of its impact on the character and the amenity of the area and the health and wellbeing of communities, the proposed hot food takeaway use (Sui Generis) is not supported as it is contrary to Policy 27 City, Town, Local and Commercial Centres of the National Planning Framework 4, adopted 2023.*
- 04. The proposed hot food takeaway use (Sui Generis) would negatively impact the amenity of neighbouring residents by virtue of its associated noise which is contrary to Policy CDP1 and SG1 Placemaking Principle of the Glasgow City Development Plan, adopted 2017.*
- 05. The development would result in 80% of units in the street block frontage located below residential uses as Class 3, public house and hot food takeaway (Sui Generis) which is contrary to the Assessment Guideline 10 of Policy SG4 Network of Centres of the Glasgow City Local Development Plan, adopted 2017.*
- 06. The proposed hot food takeaway (Sui Generis) would be sited below residential properties which would therefore result in an increase in noise, activity, cooking fumes and would unacceptably impact on the residential amenity of the neighbouring properties. This is contrary to the Assessment Guideline 10 of SG4 Network of Centres from the Glasgow City Development Plan, adopted 2017.*
- 07. The proposal does not include the minimum cycle parking provision required for composite Class 3 Use which is 1 space per 10 staff and 1 space per 50sqm for customers. This is contrary to Policy SG11 Sustainable Transport of the Glasgow City Development Plan, adopted 2017.*

- 1.16 The Reasons for Refusal are therefore essentially the following:

- Impact on the character of the area;
- Impact on the health and wellbeing of communities;

- Impact on residential amenity by way of noise, activity and fumes;
- Overconcentration of uses; and
- Too few cycle parking spaces.

1.17 It is the Appellant's position that the Case Officer has erred in the interpretation of these policies as they relate to the proposed change of use. The Appellant also considers that the Case Officer has not had due regard to material considerations in support of the Application.

Structure of the Statement

1.18 This Statement should be read in conjunction with the documents submitted as part of the Application (PA 0.01 - PA 1.02) and are referenced in the Planning Application (PA) Document Reference List submitted with this Appeal.

1.19 No objections were received from any consultees, neighbours or other interested parties. The main issue in the determination was the Case Officer's interpretation of planning policy and the failure to take relevant material considerations into account.

1.20 Additional relevant documents have been submitted to assist the Local Review Body in the determination of this Appeal and are referenced in the Six Company (SC) Document List submitted with this Appeal (SC 0.01 – SC 1.08).

2.0 Impact on the character of the area (Reason for Refusal 03)

2.1 Reason for Refusal 03 states that the Appeal proposal cannot be supported due to its impact on the character of the area, when assessed against NPF 4 Policy 27. NPF 4 Policy 27 states the following with regard to impact on local character:

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.*

2.2 The following paragraphs set out how the Appeal proposal is in-keeping with the character of the area, and therefore why Reason for Refusal 03 is not valid.

Finnieston is an area renowned for gastronomy and dining out

2.3 The Appeal proposal is located on the west end of Argyle Street, in an area characterised by a vibrant evening economy with numerous restaurants, pubs and cafes contributing to the Finnieston area's reputation as a destination for gastronomy and dining out. GlasgowLife – the Council's partner organisation charged with driving tourism and culture in the City – states on its *Visit Glasgow* website that Finnieston is known for ...*top restaurants and bars*. It goes on to state that:

*...Set by the River Clyde, Finnieston is nestled between the city centre and west end. It has seen a great rise in popularity in the recent decade, **becoming the place to go for amazing dining and entertainment**. It frequently tops polls of 'hippest areas' and was recently named the 3rd coolest neighbourhood in the UK by The Telegraph (Dec, 2022), which described the area as "go-to hipster hub" [emphasis added]...*

2.4 It also adds that:

...There are too many amazing wining and dining options to mention. If looking for Scottish fine dining, cutting edge street food or a traditional bar, then Finnieston has got you covered...

2.5 The character of the west end of Argyle Street, and Finnieston generally, is therefore defined by its reputation as a fashionable destination for innovative dining experiences for locals, tourists and the wider City overall.

The proposal is for a creative and experimental take on the tradition fish and chip shop highlighting the best Scottish ingredients

2.6 The Appeal proposal is for an ancillary takeaway area to a long-established Class 3 Restaurant use which will form an ancillary part of the restaurant, serving a creative and experimental take on the tradition fish and chip shop menu. Food offerings are based on carefully sourced, high quality Scottish ingredients, and varies daily depending on what is fresh and available from the suppliers.

2.7 The menu includes foods such as the following:

- Angel cut haddock;
- Peat smoked haddock;

- Black pudding scotch egg;
- Sourdough, shellfish & squid ink butter;
- Deep fried oyster, nduja emulsion, pickled fennel;
- Blue shell mussels puttanesca with wild garlic flat bread;
- Hand-dived scallop, glazed chicken wing and jus, salsify and preserved lemon;
- Gigha halibut, blood orange, Jerusalem artichoke, lobster bisque;
- Deep fried gherkin with sauce gribiche;
- Pomme mousseline, brown shrimp & samphire;
- Crab buns; and
- Lobster and crayfish rolls.

2.8 This is not the usual chip shop menu, and reflects the Appellant's aim for the restaurant and takeaway to add a modern and creative take to the traditional fish and chip restaurant offer, whilst highlighting the best of Scottish-sourced ingredients. The ancillary takeaway will offer some of these dishes for eating at home.

2.9 The Appeal proposal is therefore in-keeping with the area's reputation for innovative dining experiences. It offers a creative and experimental menu based on high quality, Scottish ingredients. This accords with Finnieston's reputation for ... *Scottish fine dining* [and] *cutting edge street food*... as highlighted by GlasgowLife.

Conclusion – the proposal fits with the character of the area and its reputation for innovative dining experiences

2.10 The Appellant does not agree that the Case Officer's assertion that the proposal will ...*impact on the character of the area*. The Appellant considers that this opinion was reached due to a misunderstanding about the nature of the Appeal proposal, which forms an ancillary takeaway supporting the restaurant.

2.11 The Appellant has therefore provided more details to the LRC in order to demonstrate that the Appeal proposal is very much in keeping with the character of Finnieston as an area for gastronomy and fine dining. For the reasons, Reason for Refusal 03 is not valid with regard to impacts on the character of the area.

3.0 Impact on the health and wellbeing of communities (Reason for Refusal 03)

3.1 Reason for Refusal 03 states that the proposal cannot be supported due to its impact on the health and wellbeing of the community, when assessed against NPF 4 Policy 27.

3.2 NPF 4 Policy 27 states the following with regard to impact on health and wellbeing:

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.*

3.3 The following paragraphs set out how the Appeal proposal does not undermine the health and wellbeing of the community, and therefore why Reason for Refusal 03 is not valid.

The site is not located in a ...disadvantaged area... for health

3.4 The site is located in the Scottish Index of Multiple Deprivation (SIMD) Data Zone S01010287 *Finnieston and Kelvinhaugh (part)*. This is in the 9th Decile of the SIMD 2020, indicating that it is within the Least Deprived 20% of Data Zones in Scotland. The Health Domain for this Data Zone is also in the 9th Decile, indicating that it is in the top 20% healthiest Data Zones in Scotland.

3.5 Accordingly, there is no evidence that the proposal is located in a ...disadvantaged area... as stated in NPF 4 Policy 27 c). There is thus no need to ...particularly... apply NPF 4 Policy 27c) with regard to health and wellbeing impacts. The Case Officer should therefore have applied a more flexible and nuanced approach to considering the health and wellbeing impacts of the Appeal proposal, rather than the approach applied.

The Environmental Health Officer did not object to the Appeal Proposal

3.6 The Report of Handling notes no objections from the Environmental Health Officer. It is therefore not known how the Case Officer has come to the conclusion that the proposal will ...undermine the health and wellbeing of communities. No representations were received from NHS Greater Glasgow and Clyde as part of the determination process. No health impact assessment was requested by the Case Officer.

3.7 There is no evidence to support the Case Officer's conclusion that the Appeal proposal will have an unacceptable impact on the health and wellbeing of the community. There is no evidence that the proposal will ...undermine... the health and wellbeing of the community.

Scottish Government research highlights that the context of the site is an important material consideration when looking at health impacts

3.8 The Scottish Government's 2018 paper *Research Project: To Explore the Relationship Between the Food Environment and the Planning System* notes (SC 1.02, paragraph 1.1.6) that:

From a review of the available literature, the association between exposures to outlets selling unhealthy food, diet, and body weight varies, some research shows a link and others do not. Research notes that neighbourhoods with many fast food takeaways may also have access to

outlets selling a range of healthy foods diluting fast food exposure. Overall the evidence would suggest that increased exposure to outlets selling unhealthy food increases a person's likelihood of gaining weight.

- 3.9 The same Scottish Government research paper notes (SC 1.02, paragraph 3.4.8) that:

Looking at the reverse, access to outlets selling healthy food, Larsen et al (2014) found that living in an area with a higher density of outlets selling healthy food and in close proximity to a supermarket decreased the odds of being overweight or obese. When looking specifically at schools and young people, Tang et al (2014) found that there is an association between proximity to healthy outlets and supermarkets that offer healthy options near schools and students' healthier weight status.

- 3.10 A range of out-of-home food options are therefore conducive to creating a healthier food environment. There is a considerable range of food choices available within a close proximity of the nearest school, including supermarkets on Argyle Street (Day-Today, Tesco Express, Sainsbury's Local), Byres Road (Waitrose, Tesco Express), Great George Street (M&S Simply Food), Great Western Road (SPAR, Co-op Food, Tesco Express, Healthy Balance) and Gibson Street (Premier, Lifestyle Express) which are all within an approximately 20-minute walking distance of the site.
- 3.11 Other options such as Boots, Pret a Manger and other cafes are also available within a short walking distance of the site. The City Centre, with its range of healthy options, is also within a 30-minute walk from the site.
- 3.12 It is therefore not possible to conclude that the Appeal proposal is in an area with an undue clustering of unhealthy food options. There are also a range of other options available that allows residents and visitors to make informed decisions regarding food choices. It is also the Appellant's desire for the proposed takeaway to be seen as an occasional treat, rather than a frequent choice.
- 3.13 The cost of a single meal (supper) at the takeaway varies from £9 to £20. It is therefore unlikely that the proposal will be visited at a frequency that would have a detrimental impact on a customer's long-term health. It is the Appellant's desire for the proposed takeaway to be seen as an occasional treat, rather than a frequent choice.
- 3.14 The cost of a meal at the proposed takeaway is also likely to be a barrier to excessive consumption by school pupils. The Scottish Government's 2018 paper *Research Project: To Explore the Relationship Between the Food Environment and the Planning System* notes (paragraph 3.4.7) that it is access to ...energy dense, **low cost** foods [emphasis added] ... within the close vicinity of a school that are likely to have a negative impact on health. It is not considered that the proposal is in a price range that would be affordable for regular consumption by school pupils. The proposal is only open during lunchtime on Friday to Sunday. There is therefore only one day per school week where it would be possible for lunchtime visits to the Appeal proposal.

Conclusion – there is no evidence to support that the Appeal Proposal will ...undermine... the health and wellbeing of the local community

- 3.15 There are a range of out-of-home food options within the local area, including on Argyle Street and Byres Road, allowing residents and visitors to make informed decisions regarding food choices.
- 3.16 It is unlikely that the Appeal proposal will be visited with a frequency likely to cause long-term health impacts by any member of the public, particularly school pupils due to the distance, cost, closer proximity of other outlets and opening hours.

- 3.17 There is no evidence to support the Case Officer's assertion that the Appeal proposal will impact on the health and wellbeing of the community. In light of the evidence from the Scottish Government research, it is also concluded that the Case Officer did not give due regard to the context of the site, the range of options available, opening hours and intentions of the Appellant's proposal. For these reasons, Reason for Refusal 03 is not valid.

4.0 Impact on residential amenity by noise, activity and fumes (Reasons for Refusal 04 and 06)

4.1 Reason for Refusal 04 states that the proposal cannot be supported as it would ...*negatively impact the amenity of neighbouring residents by virtue of its associated noise*... when assessed against City Development Plan (CDP) Policy CDP1 and SG1 Placemaking Principle.

4.2 CDP Policy CDP1 states the following with regards to noise impacts:

...The Council will also expect new development to be design-led, to contribute towards making the City a better and healthier environment to live in and aspire towards the highest standards of design while protecting the City's heritage, by achieving the following:

14. Ensuring new activity does not introduce unacceptable additional noise particularly in, or adjacent to, Noise Management Areas nor have an adverse effect on Quiet Areas (see Figure 7)...

4.3 The following paragraphs set out how the Appeal proposal does not negatively impact the amenity of neighbouring residents by virtue of its associated noise, and therefore why Reason for Refusal 04 Ais not valid.

The Environmental Health Officer did not object to the Appeal Proposal

4.4 The Appeal proposal is not located within or adjacent to a Noise Management Area or in a Quiet Area. This part of Policy CDP1 is therefore not relevant.

4.5 The key consideration of Policy CDP1 as it relates to the Appeal Proposal is therefore whether any additional noise is ...*unacceptable*. The Case Officer has not provided any evidence to support their conclusion that the noise impact of the Appeal proposal will be ...*unacceptable*. No objections to the Appeal Proposal were received from the Council's Environmental Health Officer.

4.6 Supplementary Guidance (SG) 1 states (paragraph 2.36) that:

...Some developments need a specialist report, for example on retail, transport or noise. Whether a specialist assessment is needed will depend on the type of development and its location.

4.7 The Case Officer did not contact the Appellant to request a noise impact assessment. Had the Case Officer raised concerns about noise impacts, these could have been addressed by the Appellant. However, the Appellant was not given the opportunity to discuss this with the Council.

4.8 SG1 does not set out criteria against which any proposal can be judged regarding noise impacts. Bespoke assessments are needed for each proposal, as encouraged by Part 2 of SG1 (paragraphs 4.4 to 4.7). It is thus unclear how the Case Officer has come to such a definitive position regarding noise, given the lack of any guidelines, commentary from the Environmental Health Officer or independent noise impact assessments.

4.9 It is considered that the Case Officer erred in the handling of the Appeal proposal in not seeking a consultation from the Council's Environmental Health Officer.

4.10 There is no evidence to support that the Appeal proposal for ancillary takeaway uses to the existing restaurant use will have an ...*unacceptable*... impact on residential amenity. The Appeal proposal is for an ancillary takeaway use to an existing restaurant use. The Appellant considers that there will

be little to no increase in noise as a consequence of the Appeal proposal, considering that the existing restaurant use is well-established, and has operated without complaints.

The range of existing uses neighbouring the Appeal proposal has not been taken into consideration when assessing activity levels

4.11 Reason for Refusal 06 states that the proposal cannot be supported as it will *...be sited below residential properties which would therefore result in an increase in noise, activity, cooking fumes and would unacceptably impact on the residential amenity of the neighbouring properties*. The Case Officer considers that it does not accord with Assessment Guideline 10 of SG4 *Network of Centres* from the Glasgow City Development Plan, adopted 2017.

4.12 Assessment Guideline 10 of SG4 *Network of Centres* states the following with regard to activity, noise and fumes:

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...*
- (ii) *Public houses, Class 11 and Sui Generis uses must not be located under new build residential development.*
- (iii) *The Council will not support food, drink and entertainment uses (including extensions to existing uses or extensions of opening hours) in rear lanes that are immediately adjacent to residential properties, unless part of a comprehensive redevelopment of an existing rear lane or creation of a new rear lane, where it can be demonstrated that residential amenity will not be adversely affected.*

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...*
- (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.*

4.13 Assessment Guideline 10.a) (ii) and (iii) are not relevant, as noted by the Case Officer in the Report of Handling. The relevant determining criteria are therefore Assessment Guideline 10.a) (i) and 10.c) (i). The key considerations are whether the proposal will result in *...increased noise, activity and/or cooking fumes*.

4.14 The context of the site is important in considering whether there will be an increased impact of noise and activity. The Appeal proposal is considered to be in keeping with the wider Argyle Street area which has a range of eating and drinking establishments, many that are open later than the Appeal proposal. The opening times for the pubs and restaurants in the block are as follows:

Restaurant / Public House	Opening Hours	Latest Closing
Sole Club	4:45pm to 11pm (Wednesday to Thursday) 12pm to 11pm (Friday to Sunday)	11pm
Santorini	12pm to 10pm (Sunday to Thursday) 12pm to 1am (Friday and Saturday)	1am
Crabshakk	12pm to 12am Wednesday to Monday)	12am
Meets Noodles	11am to 9pm (Monday to Sunday)	9pm
Silla Korean	12pm to 2pm and 5pm to 9pm (Monday to Thursday) 12pm to 9pm (Friday and Saturday)	9pm
Crescent	5pm to 12am (Tuesday to Sunday)	12am

4.15 The proposed ancillary takeaway will not be the business open latest within the block. One restaurant and a pub are open until 12am and another restaurant is open until 1am. The Appeal proposal will be closed at 11pm.

4.16 It is therefore not going to increase activity in the street in the evening as other businesses are open later at times that could have a greater impact on residential amenity.

4.17 The opening times for the pubs and restaurants in the block on the opposite side of Argyle Street are as follows:

Restaurant / Public House	Opening Hours	Latest Closing
The Ben Nevis	12pm to 12am (Monday to Saturday) 12:30pm to 12am (Sunday)	12am
The Gannet	5:30pm to 9:30pm (Wednesday) 12pm to 2pm and 5:30pm to 9:30pm (Thursday to Saturday)	9:30pm
Kelvingrove Café	10am to 1am (Monday to Sunday)	1am

4.18 The block on the opposite side of the road has restaurants and pubs open until 12am and 1am. These closing times are later than the proposed use. Again, the Appeal proposal will not increase activity in the street in the evening as other businesses are open later at times that could have a greater impact on residential amenity.

4.19 These businesses are currently operating beneath residential properties. The Appeal proposal for ancillary takeaway use to an existing restaurant will not be an agent of change in the local area. Activity and noise will be in existence prior to the opening hours of the Appeal proposal, and for up to two hours after the closing time of the Appeal proposal. The Case Officer did not give due weight to the existing context as an important material consideration in their assessment.

4.20 It should also be noted that the restaurant has been in operation since 2017 (first as Six by Nico, and now as Sole Club). The opening hours of Six by Nico (Monday to Sunday 12pm to 11pm) are similar to those proposed for the Appeal proposal. The opening hours for the Sole Club restaurant and takeaway are Wednesday to Thursday 4:45pm to 11pm, and Friday to Sunday 12pm to 11pm. The proposed opening hours for the restaurant are therefore a reduction compared to the previous restaurant. The proposed opening hours are considered acceptable hours to minimise residential disturbance under Assessment Guideline 10.c) (iii).

4.21 There is no evidence to support the Case Officer's conclusion that the Appeal proposal will lead to an increase in noise and activity on the street. Furthermore, the Case Officer did not give due regard to the existing context in their assessment during determination of the Application.

There is an existing flue at the restaurant that captures cooking fumes

- 4.22 With regard to fumes, no comments were received from the Environmental Health Officer to suggest that the existing arrangements are anything other than sufficient for preventing impacts on residential properties by fumes.
- 4.23 The Case Officer did not ask for any further details regarding the flue. Accordingly, it is not understood how the Case Officer was able to conclude that the Appeal proposal would lead to an increase in cooking fumes.
- 4.24 The existing restaurant, which was permitted 13 years ago, has an existing flue on the rear elevation. There would be no impact on residential amenity from fumes as there is an existing flue at the premises. This has not been taken into consideration by the Case Officer.

Conclusion – there is no evidence that there will be an unacceptable increase in noise, activity or cooking fumes

- 4.25 The Appeal proposal is an ancillary takeaway to an existing restaurant. There is already activity associated with the existing restaurant use. The opening hours for the proposed ancillary takeaway are less than the previous Six by Nico restaurant, which Sole Club (restaurant and takeaway) is replacing. The opening hours are within those considered acceptable by the Council, as stated in Assessment Guideline 10.c) (iii) of SG4.
- 4.26 It is unlikely that the Appeal proposal will lead to an unacceptable increase in the level of activity. The Case Officer did not give due consideration to the existing restaurant function at this address.
- 4.27 Any assessment of activity and noise needs to be viewed within context of the whole street. As Finnieston is a popular destination for dining out, there are a number of restaurants, cafes and bars in the street that are open later than the Appeal proposal. Activity levels from these uses begin before the Appeal proposal opens, and continue for up to two hours after the Appeal proposal has closed.
- 4.28 The Appeal proposal will therefore be an ancillary addition to the existing restaurant, within an area of the City synonymous with the evening economy. It is considered that any increases in activity and noise will be minimal when considered within the existing context of the area. The Case Officer did not give due regard to the existing context of the Appeal proposal as a significant supporting material consideration.
- 4.29 No objections were received from the Council's Environmental Health Officer with regard to noise, activity or fumes. No impact assessments were requested, and no additional details were sought by the Case Officer. There is no evidence to conclude that the impact of the Appeal proposal will be anything other than acceptable within the existing context of the street, and the wider Finnieston area.
- 4.30 The proposed ancillary takeaway will not have minimal impacts to the existing context with regard to noise, activity and fumes. It is therefore in accord with Policy CDP 1, SG1 and SG4. For these reasons, Reasons for Refusal 04 and 06 are not valid

5.0 Over-concentration of uses (Reason for Refusal 05)

5.1 Reason for Refusal 05 states that the proposal cannot be supported as it would ...*result in 80% of units in the street block frontage located below residential uses as Class 3, public house and hot food takeaway (Sui Generis)...* when assessed against Assessment Guideline 10 of Policy SG4 Network of Centres.

5.2 Assessment Guideline 10 states with regard to concentration of uses that:

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.*

5.3 The first part Assessment Guideline 10.a) (i) was considered in the preceding Section regarding noise, activity and cooking fumes. It was demonstrated that there is no evidence to suggest that the proposal will have unacceptable impact by way of noise, activity and cooking fumes.

5.4 The second part of Assessment Guideline 10.a) (i) is regarding the concentration of hot food shops, public houses, and composites of public house/Class 3 or hot food shop/Class 3 use.

5.5 The Report of Handling identifies that the Case Officer concluded that the Appeal proposal did not accord with this policy as:

...There are currently 80% of units being in Class 3/Public House uses which is above the percentage recommended by SG4. This is contrary to this element of the policy...

5.6 The Case Officer has misinterpreted the policy. The policy does not seek to restrict Class 3 uses, as stated by the Case Officer. Rather, it seeks to restrict over-concentrations of hot food takeaways and public houses, or hybrids containing these uses.

5.7 In support of this conclusion, the Case Officer presented the following table which summarised the findings of retail survey undertaken in November 2023:

Address	Operator	Retail Class	Use Class (no. of Units)					Total
			Class 1A	Class 3	Class 4	Sui Generis	Vacant	
1106 Argyle Street	Crescent	Public House				1		
1110 Argyle Street	Majestic Laundrette	Laundrette	1					
1114 Argyle Street	Crabshakk	Café/Restaurant		1				
1116 Argyle Street	Santorini	Café/Restaurant		1				
1122 Argyle Street	Kudos	Café/Restaurant		1				
1124 Argyle Street	Vacant	Vacant Shop					1	
1126 Argyle Street	Ramen Dayo	Café/Restaurant		1				
1132 Argyle Street	Six by Nico	Café/Restaurant		1				
1136 Argyle Street	Meets Noodle	Café/Restaurant		1				
1138 Argyle Street	Silla Restaurant	Café/Restaurant		1				
Total			1	7	0	1	1	10
Percentage of Units			10%	70%	0%	10%	10%	100%

5.8 The table provided by the Case Officer does not confirm that 80% of the uses are hot food shops, public houses, or composites. The table suggests that only 10% of the uses are currently in these uses. The Appeal Proposal would raise this to 20%, according to the Case Officer's evidence base.

5.9 As noted in the submitted Supporting Statement (PA 0.05), the Appellant considers that there is already one restaurant/hot food takeaway hybrid and a public house in the block containing the Appeal proposal. It is acknowledged that the Appeal proposal would raise the number of units operating as hot food takeaways, public houses, or hybrids to 30% of the uses on the block.

5.10 However, there are significant material considerations that need to be taken into account when considering Assessment Guideline 10 with regard to concentration of uses.

Supplementary Guidance 4 is out-of-date and does not accord with NPF 4

5.11 SG4 was adopted in February 2017. The City Development Plan (CDP) was adopted in March 2017. Both documents are therefore older than five years, and thus considered out-of-date in planning policy terms. The policies therefore need to be considered against national policy to clarify whether they remain relevant.

5.12 A key change to planning policy context was the adoption of NPF 4 in February 2023. This is a statutory document that now forms part of the Development Framework for Glasgow City Council, as well as all other local authorities in Scotland.

5.13 NPF 4 Policy 27 *City, town, local and commercial centres* states in criterion a) 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.*

5.14 It also states that the expected policy outcomes are as follows:

- *Centres are vibrant, healthy, creative, enterprising, accessible and resilient places for people to live, learn, work, enjoy and visit.*

- *Development is directed to the most sustainable locations that are accessible by a range of sustainable transport modes and provide communities with easy access to the goods, services and recreational opportunities they need.*

5.15 NPF 4 Policy 27 therefore seeks to promote town centres and the range of uses they accommodate more holistically. A complementary mix of uses within town centres is supported to promote vitality and viability. It is considered that SG4 Assessment Guideline 10 that restricts the number of compatible town-centre uses is not in accord with NPF 4 Policy 27, and will fail to deliver the policy outcomes expected in NPF 4.

5.16 The Chief Planner issued a letter (dated 8th February 2023) regarding the transitional arrangements for NPF 4 (the Transitional Guidance). The Transitional Guidance (SC 1.03) confirms the following:

Section 25 of the 1997 Act requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. Application of planning judgement to the circumstances of an individual situation remains essential to all decision making, informed by principles of proportionality and reasonableness.

It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement.

It is recognised that it may take some time for planning authorities and stakeholders to get to grips with the NPF4 policies, and in particular the interface with individual LDP policies. As outlined above, in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail. Provisions that are contradictory or in conflict would be likely to be considered incompatible.

5.17 The Transitional Guidance is clear that ...*in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail.*

5.18 As NPF 4 Policy 27 is the latter in date, it is considered that this should prevail.

5.19 The Appeal proposal is supported by NPF 4 Policy 27 in that it will continue to add to the vibrancy of this town centre location, ensuring that it remains a place for people to enjoy and visit. The development is in an appropriate and sustainable location with a designated town centre. The Appeal proposal is therefore in accord with NPF 4 Policy 27.

Supplementary Guidance 4 no longer reflects the current commercial environment of post-Covid recovery

5.20 During covid, the Scottish Government actively encouraged Class 3 business to operate as hot food takeaways. The Chief Planner's Letter *Coronavirus – relaxation of enforcement where public houses and restaurants offer a takeaway service* (dated 19th March 2020) (SC 1.04) stated that:

...Many public houses and restaurants do not currently have planning permission to operate as takeaway premises selling food and drink for consumption outside the premises.

Given the exceptional challenges facing the country from the coronavirus however, it is vital that support is given to these businesses to allow them to maximise opportunities to maintain a revenue stream and avoid potential closure and loss of small businesses...

5.21 The Letter sought to encourage takeaways in restaurants and cafes in order to support the businesses during social distancing. As many of these businesses did not have planning permission

to operate as takeaways, planning enforcement was discouraged to allow businesses to continue. It was effectively a form of economic support to these businesses during challenging times. This was repealed in October 2022 once social distancing was no longer required.

5.22 However, while social distancing is now no longer a factor, there is still a challenging, post-Covid recovery period for high streets, which is now exacerbated by the Cost of Living Crisis.

5.23 Scottish Government report *A New Future for Scotland's Town Centres* (February 2021) notes (SC 1.05, paragraphs 88-89) that:

...[Town centres] can also be a key contributor to social and economic renewal from COVID-19 and help build a fairer and more resilient society in a post-Brexit world. To make this happen we have to rethink, extend and develop further some of the ideas in the Town Centre Action Plan to take account of these changed circumstances.

The current narrative is too often about the decline or death of the town centre. This is not the case in many of our towns but we can do more and better for all towns and all in their communities. Decline is overstated and it is not inevitable. Many town centres are providing valuable functions and people and communities value and identify with them. We have to allow towns to achieve their full potential to deliver a modern, sustainable, equitable, inclusive, fairer, healthier and greener Scotland. This requires hard choices and a high level of commitment from communities, local and national governments and from our business, third sector and community organisations. Above all it requires people to collaborate and work together for their town and town centre. Towns can and should be the heart of the community, delivering for people, planet and the economy. We need to make this happen. We believe our recommendations, if implemented, can help do this.

5.24 The Report highlighted the following issues (among others) for town centres across Scotland:

- Need for adaptable and resilient town centres to support a Post-Covid recovery;
- Lack of community centred ownership and management of town centres;
- Lack of local ownership and a sense of local community;
- Constrained resources causing many community and place focused positions to have been unfulfilled; and
- Town centres that meet the needs of all local people, in a local and sustainable way

5.25 The COSLA and Scottish Government Joint Response (March 2021) (SC 1.06) to this Report notes that COSLA and the Scottish Government *...strongly support its overarching aim to work with our communities to transform the future of our town centres, help us recover and learn from the impact of the pandemic and realise the necessary economic, environmental and social wellbeing benefits.*

5.26 The Joint Response notes (page 3) that:

...The last year has been unprecedented, the global pandemic and resulting lockdowns have created and exacerbated inequalities and socio economic and wellbeing harms across the world, and this has been evident in many of Scotland's towns. We agree with the report that Covid has accelerated some trends and prompted changes in behaviour and the way that people and communities interact and connect with their towns.

The crisis has given us an opportunity to radically rethink the towns and town centres we live, work and enjoy spending time in. We want to ensure that our communities can become vibrant

hubs for the people who live there – to work, shop, learn, keep active and share cultural and social experiences...

5.27 It goes on to note (page 6) that:

...As the report notes, crucial to the continued success of our towns will be an ability to remain agile and adaptable as new opportunities present themselves and new challenges emerge. Irrespective of the challenge, what will continue to be necessary for the success of our towns and communities will be collaboration and partnership across government and beyond...

...Success won't look the same in every town because the setting, history and context for towns and town centres isn't the same everywhere. The assets and opportunities which exist will vary. What remains the same regardless of setting is that collaborative partnership working which acts upon a shared vision remains crucial to the future success of our towns and the improvements we seek with and for the communities that live, work and enjoy being there.

5.28 The Appellant is a local success-story, that (although operating across a number of cities in Scotland, England, Wales, Northern Ireland and the Irish Republic) still remains a Glasgow-based business. The Appeal proposal in particular showcases the best of Scottish ingredients, with the ancillary takeaway making a fine-dining experience accessible and inviting to all visitors and residents to enjoy as street food or in their own homes.

5.29 Despite the successes of the Appellant, the hospitality sector remains a volatile sector in the post-Covid recovery and has had to recover whilst further challenged by the impacts of Brexit and the Cost of Living Crisis.

5.30 The Scottish Government's *Covid Recovery Strategy: For A Fairer Future* (October 2021) notes (SC 1.07, Section 5) that:

...The impact of the pandemic has been felt unevenly across the economy, with sectors like Accommodation & Food Services, characterised by public-facing jobs, seeing substantial and sustained use of the [Covid Job Retention Scheme]. These areas of the economy are also often low paid and can offer more precarious forms of work (e.g. temporary contracts) and are vulnerable to sudden changes, a particular issue for young people but also women, disabled people and minority ethnic groups.

5.31 The subsequent Scottish Government strategy *Scotland's National Strategy for Economic Transformation* (March 2022) notes (SC 1.08, Section 1.3) that:

...The pandemic has also highlighted underlying weaknesses in parts of our economy and exacerbated change in others – such as retail. Customer-facing sectors of the economy, such as hospitality, tourism and the culture sector, have been most affected by Covid restrictions. Although Scotland's economic output returned to pre-pandemic levels in November 2021, the pandemic has fundamentally altered our economy and society...

5.32 It provides a number of desired outcomes for the Scottish economy, as follows:

- *establish Scotland as a world-class entrepreneurial nation founded on a culture that encourages, promotes and celebrates entrepreneurial activity in every sector of our economy;*
- *strengthen Scotland's position in new markets and industries, generating new, well-paid jobs from a just transition to net zero;*

- *make Scotland's businesses, industries, regions, communities and public services more productive and innovative;*
- *ensure that people have the skills they need at every stage of life to have rewarding careers and meet the demands of an ever-changing economy and society, and that employers invest in the skilled employees they need to grow their businesses; and*
- *reorient our economy towards wellbeing and fair work, to deliver higher rates of employment and wage growth, to significantly reduce structural poverty, particularly child poverty, and improve health, cultural and social outcomes for disadvantaged families and communities.*

5.33 A more flexible approach is therefore needed to support local businesses to recover, particularly in the food, drink and hospitality sectors. There is also a recognition from the Scottish Government that retail policies need to adapt to the new, post-Covid landscape.

5.34 This is something that has been recognised by Glasgow City Council. The Update on Glasgow City Centre Recovery Plan presented to the Council's *Economy, Housing, Transport and Regeneration City Policy Committee* noted (paragraph 3.2.2) that:

...Sales performance continues to follow previous trends where recovery is being led by food and drink (+54%) rather than traditional retail activity (i.e. general retail was 25% down)...

5.35 Food, drink and hospitality are therefore key driving forces in the recovery of the City Centre, and other town centres, including the Cranston/Yorkhill town centre in Finnieston. Support for proposals like the Appeal proposal will therefore help Glasgow to drive recovery in the post-Covid landscape.

Conclusion – Assessment Guideline 10 is out-of-date and no longer accords with NPF 4, a more flexible approach is needed to support post-Covid recovery

5.36 Assessment Guideline 10.a) (i) is more than five years old and is therefore considered out-of-date in planning policy terms. It therefore needs to be assessed against other policies (national and local) to determine if it is still appropriate.

5.37 The above assessment demonstrates that NPF 4 Policy 27 expects Councils to provide a more supportive and flexible approach to town centres. It highlights the need for town centres to include a mix of uses that add to the vitality and viability of town centres.

5.38 It is considered that SG4 Assessment Guideline 10 that restricts the number of compatible town-centre uses is not in accord with NPF 4 Policy 27, and will fail to deliver the policy outcomes expected in NPF 4. In such cases, the latter policy should prevail. As such, NPF 4 Policy 27, which supports the Appeal proposal, is the relevant policy on which to determine the Appeal.

5.39 NPF 4 Policy 27 better reflects the Scottish Government thinking on post-Covid recovery of town centres and the wider-Scottish economy. In particular, Glasgow City Council has also noted the important role that the food, drink and hospitality sectors have played in the post-Covid recovery of the City.

5.40 Given the subsequent impacts of Brexit and the Cost of Living Crisis, it is considered that supporting a local business in an area renowned for its food and drink culture is an appropriate approach, and one that would accord with NPF 4 Policy 27. For these reasons, Reason for Refusal 05 is not valid.

6.0 Cycling parking (Reason for Refusal 07)

- 6.1 Reason for Refusal 07 states that the Appeal Proposal cannot be supported because it ... *does not include the minimum cycle parking provision required for composite Class 3 Use which is 1 space per 10 staff and 1 space per 50sqm for customers*, when assessed against CPD Policy SG11 *Sustainable Transport*.
- 6.2 SG11 *Sustainable Transport* (March 2017) states at paragraph 4.3 that:
- The Council shall require the provision of cycle parking in new development and redevelopment proposals in line with the minimum cycle parking standards specified in Tables 2.1 – 2.6.*
- 6.3 Table 2.1 - 2.6 states that ... *Public Houses, Restaurants, Cafes, Social Clubs, Licensed Clubs and Function Rooms...* developments should provide:
- 1 space per 50 sqm public floor area for customers; and
 - 1 space per 10 staff
- 6.4 The Case Officer has erroneously applied SG11 to the Appeal proposal. The policy wording in paragraph 4.3 states that cycling provision is only required in new development and redevelopments.
- 6.5 Planning permission was granted for a change of use from retail to use as a restaurant in July 2010. The restaurant use therefore pre-dates this Policy by nearly seven years. The Appeal proposal is not a new development and SG11 cannot be applied retrospectively.
- 6.6 The Appeal proposal is not seeking redevelopment of the existing Class 3 Use, it is only seeking permission for an ancillary takeaway counter in a building already permitted to operate as Class 3. The ancillary takeaway counter is therefore the only new use being introduced in the Appeal proposal.
- 6.7 SG11 does not set out any minimum cycle standards for hot food takeaway uses. Therefore, the Appeal proposal accords with SG11 and does not need to provide any additional cycle parking provision.
- 6.8 The Appeal proposal is in accord with SG11 and Reason for Refusal 07 is not valid.

7.0 Conclusions

7.1 This Statement has set out the Appellant's reasons why the Appeal proposal should be granted Planning Permission. Of the seven Reasons for Refusal, Reasons 03 to 07 set out the detailed policy considerations. The policy considerations are as follows:

- Impact on the character of the area;
- Impact on the health and wellbeing of communities;
- Impact on residential amenity by way of noise, activity and fumes;
- Overconcentration of uses; and
- Too few cycle parking spaces.

7.2 These have been assessed in Sections 2 to 5 of this Statement. It is concluded that all Reasons for Refusal are not valid for the following reasons.

Impact on the character of the area (Reason for Refusal 03)

7.3 The character of the area is as a destination for gastronomy and inventive dining experiences. This is recognised by GlasgowLife, with Finnieston considered to be an attractive destination for tourists and residents alike who are seeking to experience the best of Glasgow's restaurants.

7.4 The Appeal proposal will form ancillary part of the restaurant (Sole Club), which serves a creative and experimental take on the tradition fish and chip shop menu. Food offerings are based on carefully sourced, high quality Scottish ingredients, and varies daily depending on what is fresh and available from the suppliers.

7.5 The ancillary takeaway also forms part of the scene-setting for the restaurant, providing an unexpected, speakeasy entrance to the restaurant through a false refrigerator in the takeaway. It is therefore an important part of the experience for diners.

7.6 The Appeal proposal is therefore considered to be in-keeping with the character of the area. On this basis, Reason for Refusal 03 is not valid as the Appeal proposal will not have a negative impact on the character of the area.

Impact on the health and wellbeing of communities (Reason for Refusal 03)

7.7 No evidence has been provided to support the claim that the proposal will ...*undermine*... the health and wellbeing of the community. The Council's Environmental Health Officer did not object to the Appeal proposal. Neither did NHS Greater Glasgow and Clyde. The Case Officer did not request a health impact assessment.

7.8 The site is located in one of the top 20% SIMD 2020 Data Zones in Scotland for both good health and affluence. The area is not considered to be ...*disadvantaged*... in terms of NPF 4 Policy 27.

7.9 Scottish Government research states that access to a range of food options allows people to make healthy food decisions. There is a range of food options available in the local area within a short walking distance. It is therefore not possible to conclude that the proposal is in an area with an undue clustering of unhealthy food options.

7.10 It is the Appellant's desire for the proposed takeaway to be seen as an occasional treat, rather than a frequent choice. The cost of a single meal (supper) at the takeaway varies from £9 to £20. It is

therefore unlikely that the Appeal proposal will be visited at a frequency that would have a detrimental impact on a customer's long-term health.

- 7.11 There is therefore no evidence to support the Case Officer's conclusion that the Appeal proposal will impact on the health and wellbeing of the community. Accordingly, Reason for Refusal 03 is not valid regarding health impacts.

Impact on residential amenity by way of noise, activity and fumes (Reasons for Refusal 04 and 06)

- 7.12 No evidence has been provided to support the claim that the proposal will have an unacceptable impact on residential amenity through noise, activity and fumes. The Council's Environmental Health Officer did not object to the Appeal proposal.
- 7.13 The proposal is not located within or adjacent to a Noise Management Area or in a Quiet Area. This part of Policy CDP1 is therefore not relevant.
- 7.14 SG1 does not set out criteria against which any proposal can be judged regarding noise impacts. Bespoke assessments are needed for each proposal, as encouraged by Part 2 of SG1 (paragraphs 4.4 to 4.7). However, the Case Officer did not contact the Appellant to request a noise impact assessment.
- 7.15 Accordingly, it is unclear how the Case Officer has come to such a definitive position regarding noise, given the lack of any guidelines, comments from the Environmental Health Officer or independent noise impact assessments.
- 7.16 The Case Officer did not give due consideration to the existing restaurant function at this address. The Appeal proposal is an ancillary takeaway to an existing restaurant. There is already activity associated with the existing restaurant use.
- 7.17 The opening hours for the proposed ancillary takeaway are less than the previous Six by Nico restaurant, which Sole Club (restaurant and takeaway) is replacing. The opening hours are within those considered acceptable by the Council, as stated in Assessment Guideline 10.c) (iii) of SG4.
- 7.18 The Case Officer did not give due regard to the existing context of the Appeal proposal as a significant supporting material consideration. Any assessment of activity and noise also needs to be viewed within context of the whole street. As Finnieston is a popular destination for dining out, there are a number of restaurants, cafes and bars in the street that are open later than the Appeal proposal. Activity levels from these uses begin before the Appeal proposal opens, and continue for up to two hours after the Appeal proposal has closed. It is considered that any increases in activity and noise will be minimal when considered within the existing context of the area.
- 7.19 Finally, there is also an existing flue from the kitchen to the rear of the restaurant that captures cooking fumes. There would be no impact on residential amenity from fumes as there is an existing flue at the premises. This has not been taken into consideration by the Case Officer. No comments were received from the Environmental Health Officer to suggest that the existing arrangements are anything other than sufficient for preventing impacts on residential properties by fumes.
- 7.20 There is therefore no evidence to support Reasons for Refusal 04 and 06 with regard to noise, activity and fumes. There are strong material considerations in support of the Appeal proposal, that require the existing context to be taken into consideration.
- 7.21 Accordingly, Reasons for Refusal 04 and 06 are not valid.

Overconcentration of uses (Reason for Refusal 05)

- 7.22 Assessment Guideline 10.a) (i) is more than five years old and is therefore considered out-of-date in planning policy terms. It therefore needs to be assessed against other policies (national and local) to determine if it is still appropriate.
- 7.23 NPF 4 Policy 27 expects Councils to provide a more supportive and flexible approach to town centres. It highlights the need for town centres to include a mix of uses that add to the vitality and viability of town centres. It is considered that SG4 Assessment Guideline 10 that restricts the number of compatible town-centre uses is not in accord with NPF 4 Policy 27, and will fail to deliver the policy outcomes expected in NPF 4.
- 7.24 In cases where there is incompatibility in policies, the latter policy should prevail. As such, NPF 4 Policy 27, which supports the Appeal proposal, is the relevant policy on which to determine the Application.
- 7.25 NPF 4 Policy 27 better reflects the Scottish Government thinking on post-Covid recovery of town centres and the wider-Scottish economy. Glasgow City Council has also noted the important role that the food, drink and hospitality sectors have played in the post-Covid recovery of the City.
- 7.26 Given the subsequent impacts of Brexit and the Cost of Living Crisis, it is considered that supporting a local business in an area renowned for its food and drink culture is an appropriate approach, and one that would accord with NPF 4 Policy 27. For these reasons, Reason for Refusal 05 is not valid.

Too few cycle parking spaces (Reason for Refusal 07)

- 7.27 This is not a relevant matter to the Appeal proposal, as it does not seek a new development, or a redevelopment of the existing use. The Appeal proposal is seeking to add an ancillary takeaway function to an existing Class 3 use.
- 7.28 The existing Class 3 use pre-dates the policy for cycle parking by seven years. There are no minimum cycle parking standards for takeaways in SG11. The Appeal proposal is therefore in accord with SG11, and Reason for Refusal 07 is not valid.

Conclusion

- 7.29 This Statement has therefore set out the reasons why Reasons for Refusal 03, 04, 05, 06 and 07 should be dismissed. Reason for Refusal 02, which names the policies listed in the subsequent reasons for refusal, should thus also be dismissed.
- 7.30 Reason for Refusal 01 should also be dismissed. It states that:
- 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.*
- 7.31 The Appeal should be upheld as the Appeal proposal is in accord with the development plan, comprising of NPF 4 and the CDP.
- 7.32 The Appeal proposal accords with NPF 4 Policy 27 which promotes a more supportive and flexible approach to town centres in the post-Covid recovery. It also accords with CDP Policy CDP1 with regard to health, noise and fumes. It also accords with SG1 regarding noise, SG4 regarding noise, fumes, activity and health, and SG11 regarding cycle parking.
- 7.33 There are also significant material considerations in favour of the Appeal proposal that have not been taken into account in the Case Officer's determination.

- 7.34 The existing context of the site within the wider Finnieston area is a material consideration that should be afforded much greater weight. The area is synonymous with the Glasgow restaurant and gastronomy scene. The Appeal Proposal, as part of the existing restaurant, is entirely in-keeping with the character of the area.
- 7.35 As highlighted in the previous Sections, Scottish Government research regarding health and wellbeing, the future of town centres and the post-Covid recovery led by food, drink and hospitality are important material considerations. These should also be afforded weight in the determination as they reflect
- 7.36 There is also the more fundamental issue that the Case Officer's determination has misunderstood the Appeal proposal, and has not had regard to the fact that there has been a restaurant use at this address since 2010. The Appeal proposal is seeking a modest, ancillary takeaway to this existing use.
- 7.37 As a result, the Case Officer has not given due regard to the existing operations, including associated activity up to 12am from the restaurant, and existing mitigation such as the kitchen flue. By overlooking the existing use, the Case Officer has exaggerated the potential impacts of the Appeal proposal, as the context of the existing permitted use not been considered.
- 7.38 The Appellant has demonstrated that Appeal proposal accords with the approved development plan, NPF 4 and the adopted CDP. Taking all of the above circumstances into account, it is the Appellant's submission that this Appeal should be upheld and PP granted.