



Glasgow City Council

Planning Local Review Committee

**Report by Executive Director of Neighbourhoods, Regeneration
and Sustainability**

Item 1

27th August 2024

Contact: Sam Taylor Ext: 78654

24/00040/LOCAL – 1132 Argyle Street, Glasgow

**Use of restaurant (Class 3) as restaurant (Class 3) with hot food takeaway
(Sui Generis)**

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): 10 – Anderston/City/Yorkhill Citywide: N/A

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

PLEASE NOTE THE FOLLOWING:

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1 LOCATION AND DEVELOPMENT PLAN DESIGNATIONS

- 1.1 The proposal site is located on the north western side of Argyle Street, within a mid-terraced four-storey blonde sandstone tenement block. The ground floor of the block is in commercial use, with residential units in the upper floors.
- 1.2 The site is located within the St Vincent Crescent Conservation Area.
- 1.3 The site is located within the Cranstonhill/Yorkhill Local Town Centre.
- 1.4 The site is located in an area of Base Public Transport Accessibility.
- 1.5 The proposal seeks consent for a change of use from a restaurant (Class 3) unit to a restaurant (Class 3) plus hot food takeaway (Sui Generis) Use.
- 1.6 The proposed opening hours of the restaurant are 16:45-23:00, Wednesday to Thursday; and 12:00-23:00, Friday to Sunday.
- 1.7 Externally, no changes are proposed as part of this application. Minor changes to signage are indicated within the proposal but would be subject to a separate application for advertisement consent and are not considered as part of this appeal.

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 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 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.
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 & 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 in use 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 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 of 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

4 APPEAL STATEMENT

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

01. 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. It is unlikely that the Appeal proposal will lead to an unacceptable increase in the level of activity or cooking fumes. There will be no outdoor seating. Other business requirements such as deliveries, collection of waste etc. will remain as existing.
02. 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. Food offerings are based on carefully sourced, high quality Scottish ingredients, and varies daily depending on what is fresh and available from the suppliers.
03. 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. Accordingly, there is no evidence that the proposal is located in a disadvantaged area nor did Environmental Health provide any objections to the proposal. A Health Impact Assessment has not been requested by the Council. Additionally, the site would not use low cost foods so would be unlikely to be a regular option, impacting long-term health.
04. The Case Officer has misinterpreted SG4, Assessment Guideline 10 of the CDP. The number of hot food shop, public house/Class 4, or composite hot food shop/Class 3 uses within the block would rise to 30%, not 90%.
05. 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 and is incompatible with NPF4 Policy 27 and the post-COVID context. 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.
06. 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. 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.

- 4.2 The applicant did not request any further procedure in the determination of the review.

5 REPRESENTATIONS AND CONSULTATIONS

- 5.1 There were no representations received and no consultations were undertaken.

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 relevant policy considerations

- 6.3 **CDP1: The Placemaking Principle and SG1: The Placemaking Principle (Part 2)**

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;
- b. not detract from the historic character of a listed building or property within a conservation area, see also SG9 - Historic Environment; and
- c. not adversely affect residential amenity as a result of noise, vibration, etc.

Committee should note:

- There are no external alterations included within this proposal.
- The site is directly below a residential unit.
- Committee should consider if the change of use to Sui Generis would result in an unacceptable loss of residential amenity, particularly regarding noise, activity, and cooking fumes.

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 guidance is:

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 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:

- It is proposed that the existing refuse/recycling arrangements for the business will continue. No further information has been provided
- Committee should consider whether they are completely satisfied with the waste/refuse management arrangements.

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.
- b. 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). This guidance states 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.

Assessment Guideline 10: Food, Drink and Entertainment Uses - The following criteria will be applied:

- 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.
- 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.

b. 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.

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

Committee should note:

- It is acknowledged within the Appeal Statement that the Appellant considers that there 20% of the block is already in use as a hot food shop, public house, composite public house/Class 3 or composite hot food shop/Class 3 use and that the proposed development would raise this to 30%, contrary to policy.
 - The site is located immediately adjacent to/below an existing residential unit.
 - The proposal is outwith the City Centre.
 - The proposed opening hours are 16:45-23:00 Wednesday and Thursday, and 12:00-23:00 Friday to Sunday, in compliance with this 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.

Committee should note:

- It is proposed to disperse fumes via an existing flue sited at the rear of the property which serves the existing restaurant (Class 3) use, approved as part of the 2010 application.
 - No further details on the flue have been provided as part of this application.
 - 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:

- It is proposed that the existing refuse/recycling arrangements for the business will continue. No further information has been provided.
- Committee should consider whether they are completely satisfied with the 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.
- b. 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.
- c. 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 Restaurants/Cafés:

Staff: 1 space per 10 staff

Customer: 1 space per 50sqm public floor area.

Committee should note:

- The Appeal Statement notes that there will be 10 members of staff and that the publicly accessible ground floor has a floor area of 73sqm.
 - There is no staff cycle parking proposed.
 - There is no customer cycle parking proposed. There are public cycle racks located nearby, at the junction of Argyle Street and Kelvinhaugh Street.
- 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.

Maximum standard for Restaurants/Cafés:

Base Accessibility: 4 spaces per 100sqm public floor area

Committee should note:

- The publicly accessible ground floor has a floor area of 73sqm.

- No vehicle parking is proposed.
- The site is located within a Base Public Transport Accessibility Area.
- 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- n/a

*economic
disadvantage.*

Climate Impacts:

Does the proposal support any Climate Plan actions? Please specify:

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

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

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.