



Glasgow City Council

Planning Local Review Committee

Report by Executive Director of Neighbourhoods, Regeneration  
and Sustainability

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Item 1

14th May 2024

24/00024/LOCAL – 126 Byres Road, Glasgow

Use of retail unit (Class 1A) as restaurant (Class 3) with erection of flue to  
rear.

**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): 11

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 situated on the eastern side of Byres Road, within a mid-terraced four-storey blond sandstone tenement block. The ground floor of the block is in commercial use, with residential properties in the upper floors.
- 1.2 The site is located within the Partick/Byres Road Major Town Centre, but is outwith the Retail Core Area.
- 1.3 The site is located in an area of High Public Transport Accessibility.
- 1.4 The proposal seeks consent for a change of use from a Class 1A (retail) unit to a Class 3 (restaurant) Use, plus the erection of a flue to the rear of the building.
- 1.5 The proposed opening hours of the restaurant are 11am-11pm, Sunday to Thursday; and 11am-Midnight, Friday to Saturday.
- 1.6 Externally, the only change proposed is to install a flue to the rear of the building. This is proposed to be a 600x600mm flue with steel ductwork fixed to the building fabric with steel brackets, terminating 1m above the eaves level.

## **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 proposed development is contrary to the adopted National Planning Framework 4, Policy 23 Health and safety Policy; 27 City, Town, Local and Commercial Centres; and to Glasgow City Development Plan, Policy CDP 1 The Placemaking Principle and Supplementary Guidance SG 1 Placemaking (Part 2); Policy CDP 4 Network of Centres and Supplementary Guidance SG 4 Network of Centres (Assessment Guidelines 4: Proposed Non-Retail Uses within Major Town Centres and 10: Food, Drink and Entertainment Uses).
03. The proposal, which would result in 46.7% of the units on the street block frontage being in non-Class 1A use and five adjacent Class 3 units, would detract from the vitality and viability of the Major Town Centre by decreasing its mix of uses and is therefore contrary to National Planning Framework 4, Policy 27.
04. The proposal would result in the unacceptable loss of Class 1A retail units with 46.7% of the units on the street block frontage being in non-Class 1A use, including five adjacent Class 3 units, would erode the retail character of the Major Town Centre to the detriment of its vitality and viability and is therefore is contrary to SG 4, Assessment Guideline 4.
05. The proposal would result in an unacceptable adverse impact on the amenity of neighbouring residential properties due to the cumulative impact of Class 3 units within the street block frontage and is therefore contrary to National Planning Framework 4, Policy 23 Health and safety; Policy 27 City, Town, Local and Commercial Centres; CDP 1 The Placemaking Principle and Supplementary Guidance SG 1 Placemaking (Part 2); Policy CDP 4 Network of Centres and Supplementary Guidance SG 4 Network of Centres (Assessment Guidelines 4: Proposed Non-Retail Uses within Major Town Centres and 10: Food, Drink and Entertainment Uses).
06. The proposal does not demonstrate that the property has been appropriately marketed for Class 1A use for a minimum period of 12 months prior to submission of the non-Class 1A proposal and that the marketing exercise was unsuccessful in attracting Class 1A operators and therefore is contrary to SG 4, Assessment Guideline 4.
07. The consideration of the Planning Authority is that there is still a reasonable prospect of Class 1 use being resumed in the unit and an exception to SG 4 requirements is not justified.

## **4 APPEAL STATEMENT**

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

01. The proposal will reduce vacancy levels and will ensure a permanent use for this unit that has struggled to rent for a sustained time, adding to the vibrancy and viability of this Major Town Centre.
02. The proposals will contribute positively to an area which is seeing increased investment and regeneration and will ensure the prominent unit does not remain vacant and detract from the amenity of the locality.
03. We question why this application was assessed against Policy 23 proposals will not harm people or places, they do not introduce safety hazards and are not for development that will promote health and wellbeing.
04. NPF4 recognises the changing nature of retail and impact upon cities. Our case is Supplementary Guidance 4 does not reflect NPF4 and the requirement for Town Centres to respond to economic circumstances by diversifying to reflect the changing nature of the area. The aim of NPF4 is to ensure that decision making in respect of non-retail uses in the Town Centre does not undermine the character and amenity of the area or the health and wellbeing of communities. We have outlined in the supporting documents and within this statement that the proposals will complement the existing character of the area and do not constitute a threat to the health and wellbeing of the area.
05. The Report of handling confirms that Class 3 use at the ground floor of tenemental properties is commonplace in Town Centres and would not be out of character with the local area, they also confirm the proposed extraction and waste collection arrangements fully accord with SG10.
06. In respect of impact of amenity, the officer has confirmed that, subject to conditions, the proposed opening hours and disposal of fumes and odours accord with Policy. Therefore it stands to reason that the proposals comply with Policy and will not impact amenity. Therefore we fail to see how there is a perceived cumulative impact when the proposed arrangements do not present any impact.
07. The unit is vacant and has not been occupied by a viable shop for many years. There is lack of demand for retail use of this unit and this is evidenced by this request for a change of use.
08. The proposals do raise a minor tension with the Assessment Guidance but fully comply with the requirements of NPF4 which is the over arching policy in this regard.
09. Granting planning permission for a new restaurant at this prominent location will support local investment and maintain Byres Road as a desirable place to visit.

10. The applicant has requested that the review be conducted by means of holding one or more hearing sessions on specific matters to allow the applicant to opportunity to present the case and answer any questions. Where the Committee decides that the review documents alone do not provide sufficient information to make a decision, it is for the Committee to determine how further information may be obtained. This can either by means of further written submissions, the holding of one or more hearing sessions, or a site inspection, or a combination of these, as set out in the Local Review Regulations.

## **5 REPRESENTATIONS AND CONSULTATIONS**

- 5.1 One representation to the planning application was received. This was from a local resident and was to object to the proposal on the grounds of noise levels generated from the proposed use and cooking smells.
- 5.2 There were no representations to this Review.

## **6 COMMITTEE CONSIDERATIONS**

- 6.1 Committee should consider if the following are in accordance with NPF4, the relevant City Development Plan policies and Supplementary Guidance, and if there are material considerations which outweigh the Development Plan considerations.
- 6.2 The following are the relevant policy considerations:
- 6.3 **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:

### **Alternations 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 disamenity to neighbours as a result of noise, vibration, etc.

**Chiller/Air Conditioning Units/Flues** – The following guidance applies:

- a) external fittings such as air conditioning units should be located out of sight of public view, on rear/side elevations, concealed on a roof, or in back yards;
- b) within residential buildings, units should be located to minimise noise and vibration. In general units should be located away from any residential window.

Committee should note:

- The new flue is to be sited to the rear of the building, in compliance with policy.
  - This will be sited approximately 2m above ground, and will be located between residential windows approximately 0.75m away.
- Committee should consider if the position of the flue will minimise noise and vibration and is acceptable in this case.

**Rear Alterations or Extensions** – The following guidance applies:

- a) commercial premises should not extend into existing backcourts, where this would lead to an unacceptable reduction in the area of the backcourt and a consequent reduction of residential amenity;
- b) there should be no door access from a commercial unit into a backcourt or communal garden, where this would allow noise and commercial activity into the exclusively residential part of the tenement;

Committee should note:

- There is an access door from the rear of the unit into the backcourt area, contrary to policy.
- Committee should consider whether the access into the rear court will reduce the area of the backcourt or have an adverse impact on residential amenity.

#### **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 the cross-contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities.

SG1 provides the following detailed guidance:

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

Committee should note:

- A waste store is indicated towards the rear of the property, but this is not included on the floor plan and no information as regards to waste collection has been provided.
- Committee should consider whether they are completely satisfied with the waste/refuse management arrangements.

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

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

The relevant guidance is:

- a) Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported.
- 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.

SG4 provides the following detailed guidance:

#### **Assessment Guideline 4: Proposed Non-Retail Uses Within Major Town Centres**

– The following criteria will be applied:

a) If the proportion of ground floor Class 1 shop units is more than 70%, an application for a change of use of ground floor units from Class 1 to non-Class 1 may be considered favourably where it can be demonstrated that the proposal will:

- i. Contribute positively to the character and appearance of the Town Centre and provide an active frontage;
- ii. Not have an unacceptable effect on Town Centre or residential amenity; and
- iii. In the traditional shopping streets of Major Town Centres, result in not more than 30% of the shop units within a street block frontage being in non-Class 1 use and not more than 3 adjacent non-Class 1 units within a street block. This provision does not apply to indoor mall shopping environments.

b) If the proportion of ground floor Class 1 shop units is less than 70%, further changes of use will not be supported unless it can be demonstrated that the proposal will satisfy a) above and will achieve at least one of the following:

- i. Deliver the re-use of long-term vacant units (ie, those where the unit is unoccupied and an appropriate marketing exercise has been carried out over a minimum 12 month period); and/or
- ii. Accord with relevant Spatial Supplementary Guidance.

c) It will not be necessary to satisfy the criteria within Sections a)(iii) and b) where there is a long-term pattern of vacant units within an individual street block .

d) The loss of an operating retail unit, where there are vacant units within a centre, will normally be resisted. Where a proposal forms part of a comprehensive redevelopment within a Town Centre, the Council will consider the loss of operational retail units in the context of the units' significance and as part of the overall redevelopment scheme.

Committee should note:

- The proportion of ground floor units in Class 1A use is less than 70% (currently 69.3%).
- This change of use would result in more than 30% of the units within the street block being in non-Class 1A use (40%), contrary to policy.
- This change of use would result in more than 3 adjacent non-Class 1A units within the block (5), contrary to policy.
- The unit is not long-term vacant as has not been marketed for at least 12 months (marketing started July 2023).
- There is no long-term pattern of vacant units within the street block.

Committee should consider whether:

- The proposal will enhance and improve the vitality and viability of the town centre.
- The proposal will contribute positively to the character of the town centre.
- The proposal will have a detrimental effect on amenity for neighbouring residents.



## **Food, Drive 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, Drive 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:

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.

Outwith the City Centre:

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

Committee should note:

- The proposal is outwith the City Centre.
- The proposed opening hours are 11am-11pm Sunday to Thursday, and 11am-Midnight Friday to Saturday, in compliance with policy.
- Committee should consider whether the proposed use and hours of operation will have a negative impact on residential amenity.

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

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 the 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 full specification, when fitted at the application site. This requirement will be secured by a suspensive condition imposed on any relevant planning permission granted.

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 a new flue erected at the rear of property. This flue will terminate 1m above the eaves, in compliance with policy.
  - No information has been provided in relation to the proposed cooking equipment or fume dispersal methods, contrary to policy.
  - No maintenance schedule has been provided, contrary to policy.
- Committee should consider whether they are completely satisfied with the arrangements for the dispersal of cooking fumes.

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

Proposals for food, drink and entertainment uses will only be considered favourably if suitable arrangements for the management and disposal of waste (including recyclables) can be provided, to the complete satisfaction of the Council. Plans to show details of on-site waste storage facilities will be required.

Committee should note:

- A waste store is indicated towards the rear of the property, but this is not included on the floor plan and no information as regards to waste collection 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 developments, 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:

- 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 Highburgh Road and Byres Road.
- 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:

High Accessibility: 2 spaces per 100sqm public floor area

Committee should note:

No vehicle parking is proposed.

The site is located within a High 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 DRAFT CONDITIONS

**01.** The development to which this permission relates shall be begun no later than the expiration of three years beginning with the date of grant of this permission.

**Reason:** In the interest of certainty and the proper planning of the area, and to comply with section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

**02.** A waste management plan shall be submitted to and approved in writing by the Planning Authority within 2 months of the date of this decision.

**Reason:** In order to protect the appearance of both the property itself and the surrounding area.

**Reason:** To ensure the proper disposal of waste and to safeguard the environment of the development.

**03.** Before any work on the site is begun, details of refuse and recycling storage areas and bins shall be submitted to and approved in writing by the planning authority. These facilities shall be completed before the development/the relevant part of the development is occupied.

**Reason:** To ensure the proper disposal of waste and to safeguard the environment of the development.

### **04.** Disposal of Cooking Odours/Fumes

- a. All cooking smells, noxious fumes or vapours from the premises shall be disposed of by means of a duct carried up the rear elevation and terminating at a point 1 metre above the eaves. The duct shall be free from any obstruction such as a plate, cowl, cap or any other deflection at its termination point.
- b. A ventilation and filtration system incorporating at least the following elements shall be installed and operational before the use commences. The elements to be included are:
  - i) Canopies - A canopy (or canopies) shall be located above all cooking appliances.
  - ii) Air Flow - The canopy face velocity shall be not less than 0.5 m/s.
  - iii) Primary Grease Filtration - Labyrinth (baffle) grease filters shall be installed within the canopy or canopies.
  - iv) Air Input – An air input system shall be provided by means of a pleated inlet filter, supplying clean filtered air equivalent to at least 80% 'make-up' of the extracted air.
- c. A maintenance/management scheme for the ventilation and filtration system, including all aspects referred to in (a) and (b) above shall be submitted to and approved in writing by the planning authority before the use commences and shall be implemented as approved for the duration of the use.
- d. Mechanical and electrical installations shall be arranged to ensure that the ventilation system is in operation during periods when the premises are open for the preparation and/or cooking of food.

**Reason:** To protect local residents from nuisance resulting from the disposal of cooking odours.

**05.** All mechanical ventilation plant shall be suitably isolated from the structure of the building by means of vibration isolation mounting or equivalent. Fan units positioned in a ducted system shall be isolated from the ducting by means of flexible connections.

**Reason:** To protect local residents from nuisance resulting from the disposal of cooking odours.

**06.** The hours of operation shall be 11am-11pm Sunday to Thursday; 11am-Midnight Friday to Saturday.

**Reason:** To safeguard the amenity of the surrounding area.

**07.** Deliveries shall occur no earlier than 8am.

**Reason:** To protect local residents from exposure to noise at unsocial hours.

**08.** Cycle parking in keeping with the requirements of CDP11 and SG11: Sustainable Transport shall be installed onsite.

**Reason:** To ensure that cycle parking is available for the users of the development.

**09.** Noise from or associated with the completed development (the building and fixed plant) shall not give rise to a noise level, assessed with windows closed, within any dwelling or noise sensitive building in excess of that equivalent to Noise Rating Curve 35 between 0700 and 2200, and Noise Rating Curve 25 at all other times.

**Reason:** To protect the occupiers of dwellings or noise sensitive buildings from excessive noise.

**10.** Acoustic/amplified music from the premises shall not give rise to a noise level, assessed with windows closed, within any dwelling or noise sensitive building in excess of that equivalent to Noise Rating Curve 35 between 0700 and 2200, and Noise Rating Curve 25 at all other times.

**Reason:** To protect the occupiers of dwellings or noise sensitive buildings from excessive noise.

## 9 Policy and Resource Implications

### Resource Implications:

*Financial:* n/a

*Legal:* n/a

*Personnel:* n/a

*Procurement:* n/a

**Council Strategic Plan:** n/a

### Equality and Socio-Economic Impacts:

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

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

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

### Climate Impacts:

*Does the proposal support any Climate Plan actions? Please specify:* n/a

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

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

**Privacy and Data  
Protection Impacts:**

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

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

**10 Recommendations**

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