

REPORT OF HANDLING FOR APPLICATION 23/02657/FUL

ADDRESS:	126 Byres Road Glasgow G12 8TD
PROPOSAL:	Use of retail unit (Class 1A) as restaurant (Class 3) with erection of flue to rear.

DATE OF ADVERT:	17 November 2023
NO OF REPRESENTATIONS AND SUMMARY OF ISSUES RAISED	One representation was received which objected to the application on the following grounds: <ul style="list-style-type: none"> Noise Odours Comment: It is considered that the points raised in the representation have been addressed in the assessment below.
PARTIES CONSULTED AND RESPONSES	None
PRE-APPLICATION COMMENTS	None

EIA - MAIN ISSUES	NONE
CONSERVATION (NATURAL HABITATS ETC) REGS 1994 – MAIN ISSUES	NOT APPLICABLE
DESIGN OR DESIGN/ACCESS STATEMENT – MAIN ISSUES	NOT APPLICABLE
IMPACT/POTENTIAL IMPACT STATEMENTS – MAIN ISSUES	NOT APPLICABLE
S75 AGREEMENT SUMMARY	NOT APPLICABLE
DETAILS OF DIRECTION UNDER REGS 30/31/32	NOT APPLICABLE
NPF4 POLICIES	<p><u>Policy 12 Zero Waste</u></p> <p>Policy 12 promotes development that is consistent with the waste hierarchy. Development proposals that are likely to generate waste when operational will set out how much waste the proposal is expected to generate and how it will be managed including:</p> <ul style="list-style-type: none"> 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. <p><u>Policy 23 Health and safety</u></p> <p>The intent of Policy 23 is to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing</p> <p><u>Policy 27 City, town, local and commercial centres</u></p>

	<p>Policy 27 promotes development in our city and town centres, which 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.</p> <p>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.</p> <p>b) Development proposals will be consistent with the town centre first approach. Proposals for uses which will generate significant footfall, including commercial, leisure, offices, community, sport and cultural facilities, public buildings such as libraries, education and healthcare facilities, and public spaces will be supported in existing city, town and local centres.</p> <p>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.</p>
<p>CITY DEVELOPMENT PLAN POLICIES</p>	<p><u>CDP 1 & SG 1 The Placemaking Principle</u></p> <p>CDP 1 The Placemaking Principle requires a holistic, design-led approach to development to achieve the City Development Plan's key aim of creating and maintaining a successful, high quality, healthy place.</p> <p>SG 1 Part 1 sets the context and approach to placemaking established in CDP 1. It notes that placemaking principles should inform all development. New development should not have an undue adverse impact on the amenity of adjacent land or property.</p> <p><u>CDP 2 Sustainable Strategy</u></p> <p>The Council will continue to focus on the regeneration and redevelopment of the existing urban area to create a sustainable City. In doing so, the Council will support new development proposals that: Protect and reinforce town centres as the preferred locations for uses which generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities.</p> <p><u>CDP 4 & SG 4 Network of Centres</u></p> <p>The Council will favour proposals that Support the retail function and/or improve the quality and diversity of Glasgow's Major Town Centres, subject to compliance with criteria set out in SG 4.</p> <p>SG 4 contains a series of Assessment Guidelines that seek to protect the retail character of Major Town Centres whilst maintaining a range of appropriate other uses. The application site is outwith the Retail Core Area in Partick/Byres Road Town Centre. The following criteria specific from Assessment Guideline 4 is therefore relevant:</p> <p><i>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></p> <ul style="list-style-type: none"> <i>(i) Contribute positively to the character and appearance of the Town Centre and provide an active frontage;</i> <i>(ii) Not have an unacceptable effect on Town Centre or residential amenity; and</i> <i>(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.</i> <p><i>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></p> <ul style="list-style-type: none"> <i>(i) Deliver the re-use of long-term vacant units***; and/or</i>

(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

*** All calculations should include vacant units.*

**** Long-term vacant units are those where the unit is unoccupied and an appropriate marketing exercise has been carried out over a minimum 12 month period (or 18 months if the unit is a significant Class 1 unit, such as a large supermarket or major department store) and has been unsuccessful in attracting Class 1 operators. The applicant will be expected to submit documentation to include details of floorspace, costs and length of lease offered to interested parties to ensure these factors are not unnecessarily acting as a deterrent to Class 1 use. This will remain confidential information. Temporary uses (open for less than 12 weeks and in accordance with the lawful use) will contribute towards the 12 month vacancy period, provided the marketing exercise is ongoing during that period.*

The proposal is for a café/restaurant and should be assessed against the specific guidance for food, drink and entertainment uses in Assessment Guideline 10. The parts relevant to this application are:

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.*

c) Outwith the City Centre:

(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.

The treatment and disposal of cooking/heating fumes should be considered. The application should be assessed against Assessment Guideline 12:

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 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.

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.

	<p><i>d) A suitably qualified engineer must undertake the design and installation of the ventilation system.</i></p> <p><i>e) If the applicant cannot adequately address the Council's requirements in terms of ventilation, the Council may require to control the method of cooking through the use of conditions.</i></p> <p>SG 4 Assessment Guideline 13 requires that parking and servicing requirements associated with proposed food, drink and entertainment uses must comply with Section B of SG 11 Sustainable Transport and must not result in parking and/or traffic congestion.</p> <p>SG 4 Assessment Guideline 14 requires that 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.</p> <p><u>CDP 11 & SG 11 Sustainable Transport</u></p> <p>CDP 11 aims to ensure that Glasgow is a connected City, characterised by sustainable and active travel, by: supporting better connectivity by public transport; discouraging non-essential car journeys; encouraging opportunities for active travel; and reducing pollution and other negative effects associated with vehicular travel.</p>
OTHER MATERIAL CONSIDERATIONS	It is not considered that there are any other material considerations.
REASON FOR DECISION	<ol style="list-style-type: none"> 1. 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. 2. 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). 3. 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. 4. 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. 5. 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). 6. 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

	<p>unsuccessful in attracting Class 1A operators and therefore is contrary to SG 4, Assessment Guideline 4.</p> <p>7. 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.</p>
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	COMMENTS
PLANNING HISTORY	None
SITE VISITS (DATES)	11 January 2024
SITING	<p>The application site is a ground floor retail unit in a three storey sandstone tenement on the east side of Byres Road. The site is outwith the Retail Core Area in Partick/Byres Road Town Centre.</p> <p>The established planning use of the unit Class 1A of The Town and Country Planning (Use Classes) Order 1987 (as amended). The unit is currently vacant having been previously occupied by a small supermarket.</p>
DESIGN AND MATERIALS	<p>Permission is sought for a change of use from Class 1A to Class 3. No alterations are proposed to the shopfront.</p> <p>An extraction flue would be installed at the rear of the building. Waste and bin storage would be provided at the rear of the unit.</p> <p>The proposed operating hours are 11:00 – 23:00 Sunday to Thursday and 11:00 – 00:00 Friday and Saturday.</p>
DAYLIGHT	The only external alteration to the building would be the installation of an extraction flue at the rear of the building. Consequently, it is not considered the proposal would adversely affect daylight to neighbouring properties.
ASPECT	The unit fronts Byres Road.
PRIVACY	The only external alteration to the building would be the installation of an extraction flue at the rear of the building. Consequently, it is not considered the proposal would adversely affect privacy of neighbouring properties.
ADJACENT LEVELS	Byres Road is relatively flat.
LANDSCAPING (INCLUDING GARDEN GROUND)	No landscaping proposed.
ACCESS AND PARKING	No alterations to access or parking proposed.
SITE CONSTRAINTS	None
OTHER COMMENTS	<p>Sections 25 and 37 of the Town and Country Planning (Scotland) Acts require that when an application is made, it shall be determined in accordance with the Development Plan unless material considerations dictate otherwise.</p> <p>The issues to be taken into account in the determination of this application are therefore considered to be:</p> <ul style="list-style-type: none"> a) whether the proposal accords with the statutory Development Plan; and b) whether any other material considerations (including objections) have been satisfactorily addressed. <p>The Development Plan is comprised of NPF4 adopted on 13 February 2023 and the Glasgow City Development Plan adopted on 29 March 2017. The relevant Development Plan policies are summarised above.</p> <p>On 31 March 2023, The Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Miscellaneous Amendment Order 2023 created new use Class 1A for Shops, and financial, professional and other services. This new use class is a combination of the previous uses Class 1 (shops) and Class 2 (financial services). For the avoidance of doubt, policies relating to Class 1 retail are now applied to the replacement Class 1A.</p>

SG 4 Network of Centres contains guidance on changes of use from Class 1 in the Retail Core Area of Partick/Byres Road Town Centre. It is necessary to understand the proportion of Class 1A units in the street block frontage and wider town centre in order to apply the guidance. The table below sets out proportion of Class 1A units in the street block frontage (January 2024 Case Officer site visit record) and the wider Town Centre (2023 Retail Survey).

	Total Class 1A	Total non-Class 1A
As existing		
Street block frontage (94 - 146 Byres Road)	60%	40%
Partick/Byres Road Town Centre (Total)	69%	31%
As proposed		
Street block frontage (94 - 146 Byres Road)	53.3%	46.7%

SG 4 Assessment Guideline 4 specifies that, if the proportion of ground floor Class 1 shop units is more than 70%, further changes of use will be supported if 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% [including vacant units] 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.

As noted in the table, the proportion of Class 1A units is less than 70% in terms of both Partick/Byres Road Town Centre and the street block frontage.

Where the proportion of ground floor Class 1 shop units is less than 70%, SG 4 specifies that further changes of use will not be supported unless it can be demonstrated that the proposal will satisfy the above criteria and achieve at least one of the following:

- i. Deliver the re-use of long-term vacant units [Long-term vacant units are those where the unit is unoccupied and an appropriate marketing exercise has been carried out over a minimum 12 month period (or 18 months if the unit is a significant Class 1 unit, such as a large supermarket or major department store) and has been unsuccessful in attracting Class 1 operators.]; and/or
- ii. Accord with relevant Spatial Supplementary Guidance.

It is considered the unit provides an active frontage that contributes positively to the character and appearance of the Town Centre in accordance with SG 4 Assessment Guideline 4 and CDP 2.

The proposal is contrary to SG 4 Assessment Guideline 4 as it would result in five adjacent non-Class 1A units and would reduce the proportion of Class 1A units in the street block frontage to 53.3%. The proposal is contrary to SG 4 Assessment Guideline 10 as the proportion of Class 3 units in the street block frontage would be increased to 46.7%. In this context, it is considered the proposal fails to protect the retail function of the Town Centre and as a result, would have an adverse impact on the vitality and viability of the Town Centre contrary to NPF4 Policy 27, CDP 4 and SG 4.

The proposed operating hours comply with SG 4 Assessment Guideline 10. In principle, it is not considered the proposed operating hours are unsociable. An extraction flue would be installed at the rear of the building which would disperse fumes and odours approximately 1 metre above eaves level. It is considered that this is a sufficient distance from the residential properties below. Subject to the approval of further details, it is considered the proposal could satisfy the requirements of SG 4 Assessment Guideline 12 on the treatment and disposal of cooking/heating fumes.

It is acknowledged that, subject to conditions, the proposed opening hours and disposal of fumes and odours accord with policy. Despite this, the cumulative impact of a high concentration of Class 3 units on residential amenity is a significant material consideration. It is considered that an additional Class 3 unit, and especially one that results in five

	<p>adjacent Class 3 units, would adversely increase noise and activity. Consequently, it is considered the proposal would result in a significant loss of amenity to neighbouring residential properties. The proposal is therefore contrary to NPF4 Policies 23 and 27; CDP 1 and SG 1; and CDP 4 and SG 4 in respect of amenity.</p> <p>The applicant has submitted a letter from a property consultant in support of the application. The letter states the unit was marketed for Class 1A use from July 2023. In accordance with SG 4 Assessment Guideline 4, the unit cannot be classed as long-term vacant as it has been marketed for Class 1A use for less than 12 months.</p> <p>SG 4 Assessment Guideline 4 states that, if there is a long-term pattern of vacant units within the street block frontage, it will not be necessary to satisfy the criteria relating to the street block frontage (proportion of Class 1 units and number of adjacent Class 1 units) or the re-use of a long-term vacant unit.</p> <p>A comparison of retail surveys from previous years (see Appendix 1) shows that a significant majority of units in the street block frontage have been consistently occupied since 2015. There is also evidence of long-term vacant units being brought back into Class 1A use (100 and 114 Byres Road). Furthermore, the proportion of vacant units has reduced from its peak of 20% in 2018/19 to 13% in January 2024. The SG 4 Assessment Guideline 4 criteria relating to the street block frontage (proportion of Class 1 units and number of adjacent Class 1 units) and the re-use of a long-term vacant unit are therefore considered to be relevant.</p> <p>The block plan drawing indicates that refuse and recycling storage would be provided at the rear of the unit. It is considered that details of refuse and recycling could be controlled by condition if the application is approved. Subject to condition, it is considered the proposal accords with NPF4 Policy 12, CDP 4 and SG 4 in respect of waste management.</p> <p>The proposal relates to an existing Town Centre unit in an area of high accessibility. It is not considered that a Class 3 use in this location would generate any significant additional transport requirements. It is not considered the proposal raises any issues in respect of CDP 4, SG 4, CDP 11 and SG 11 on transport.</p> <p>To conclude, it is considered the proposal would have an adverse impact on the vitality and viability of the Town Centre and the amenity of neighbouring residential properties. Consequently, it is considered that the proposal is contrary to the Development Plan. It is considered that the matters raised in the representation have been addressed above and that there are no other material considerations that outweigh the Development Plan. It is therefore considered the proposal is unacceptable.</p>
RECOMMENDATION	Refuse

Date: 12/01/2024	DM Officer	David Haney
Date: <u>15/01/2024</u>	DM Manager	Mark Thomson

APPENDIX 1 – Vacancy patterns for street block frontage 2015 - 2023

	2024	2023	2022	2020	2019	2018	2017	2016	2015
146 BYRES ROAD	Slater, Hogg and Howison	Slater, Hogg and Howison	Slater, Hogg and Howison	Slater, Hogg and Howison	Slater, Hogg and Howison	Slater, Hogg and Howison	Slater, Hogg and Howison	Slater, Hogg and Howison	Slater, Hogg and Howison
142 BYRES ROAD	Currie & Quirk, Opticians	Currie & Quirk, Opticians	Currie & Quirk, Opticians	Currie & Quirk, Opticians	Currie & Quirk, Opticians	Currie & Quirk, Opticians	Currie & Quirk, Opticians	Currie & Quirk, Opticians	Currie & Quirk, Opticians
138 BYRES ROAD	Café Francoise	Café Francoise	Café Francoise	Café Francoise	Café Francoise	Francoise Patisserie	Francoise Patisserie (refurb)	Francoise Patisserie	Francoise Patisserie
134 BYRES ROAD	Kember and Jones	Kember and Jones	Kember and Jones	Kember and Jones	Kember and Jones	Kember and Jones	Kember and Jones (refurb)	Kember and Jones	Kember and Jones
132 BYRES ROAD	Sushi	Sushi	Sushi	Sushi	Sushi	Sushi	Amber Restaurant	Amber Restaurant	Amber Restaurant
126 BYRES ROAD	Vacant	Vacant (888 Express)	888 Express	888 Express	888 Express	Vacant (Peckhams)	Peckhams	Peckhams	Peckhams
122 BYRES ROAD	Topolabamba	Vacant	Soba	Soba	Soba	Soba	Soba	Soba	Soba
114 BYRES ROAD	Vape Shop	Vape Shop	Vacant (Ashtins Aromatics)	Vacant (Ashtins Aromatics)	Vacant (Ashtins Aromatics)	Ashtins Aromatics	We Repair	Vacant	Rannoch
112 BYRES ROAD	Vacant	National Property	National Property	Brazuca Barbers	Vacant	Vacant	Vacant	Vacant	Vacant
108 BYRES ROAD	Aberdein Considine	Aberdein Considine	Aberdein Considine	Aberdein Considine	Aberdein Considine	Aberdein Considine	Aberdein Considine	Aberdein Considine	A&S Ireland Estate Agents
106 BYRES ROAD	George Mewes	George Mewes	George Mewes	George Mewes	George Mewes	George Mewes	George Mewes	George Mewes	George Mewes
104 BYRES ROAD	News & Views	News & Views	News & Views	News & Views	News & Views	News & Views	News & Views	News & Views	News & Views
100 BYRES ROAD	Xing Fu Tang	Xing Fu Tang	Xing Fu Tang	Vacant (By Distinction Art)	Vacant (By Distinction Art)	Vacant (By Distinction Art)	By Distinction Art	By Distinction Art	By Distinction Art
98 BYRES ROAD	Chow's Chinese Restaurant	Chow's Chinese Restaurant	Chow's Chinese Restaurant	Chow's Chinese Restaurant	Chow's Chinese Restaurant	Chow's Chinese Restaurant	Chow's Chinese Restaurant	Chow's Chinese Restaurant	Chow's Chinese Restaurant
94 BYRES ROAD	Ting Thai	Ting Thai	Vacant (The Hill)	The Hill	The Hill	The Hill	The Hill	The Hill	The Hill

Notes: The records for each year are taken from the annual retail survey except for 2024, which was recorded by the Case Officer on a site visit. No retail survey was carried out in 2021.