



PLANNING APPLICATIONS COMMITTEE

Report by Executive Director of Development and Regeneration Services

Contact: Mr D Drummond Phone: 0141 287 6067

ITEM 1 (e)

29th November 2011

APPLICATION TYPE Full Planning Permission
RECOMMENDATION Grant Subject to Condition(s)

APPLICATION	10/01843/DC	DATE VALID	11.08.2010
SITE ADDRESS	484 Duke Street Glasgow G31 1QF		
PROPOSAL	Use of vacant shop as hot food takeaway, frontage alterations and erection of flue to rear elevation - deletion of condition 03 of consent 09/00634/DC to alter ventilation with carbon filter extract system.		
APPLICANT	Alan Cowan 484 Duke Street Glasgow G31 1QF	AGENT	Mr Steven 717 Pollokshaws Road GLASGOW G41 2AA
WARD NO(S)	09, Calton	COMMUNITY COUNCIL LISTED	02_045, Dennistoun
CONSERVATION AREA			
ADVERT TYPE	Bad Neighbour Development	PUBLISHED	20 August 2010
CITY PLAN	Town Centre (DEV4)		

REPRESENTATIONS/ CONSULTATIONS

Fourteen representations have been received from William Bain MP, Councillor Ruth Simpson, Councillor Alison Thewliss, Reidvale Housing Association and nine local residents. The points of objection are as follows:

1. There is no guarantee that the carbon filtration system will work as it is untested. The system could also affect the health and well being of surrounding residents.
2. Another hot food takeaway in the local area.

Land and Environmental Services (Environmental Health) – no objection, subject to conditions and advisory notes.

SITE AND DESCRIPTION

The application site is a vacant shop on the south side of Duke Street within a blonde 4-storey tenement with commercial uses on the ground floor and residential flats above. The building is not listed and is not within a conservation area.

Planning permission was approved on 27 October 2009 for the use of the vacant shop as a hot food takeaway with frontage alterations and erection of a rear flue.

An amendment to this planning consent is now sought to alter the ventilation for the premises. The intention is to use a carbon filtration system, rather than the approved rear ventilation flue. The filtration system would operate within the ground floor unit and would use an extraction point through an existing rear window at ground floor level. The alteration to the ventilation of the premises is the only matter to be considered as part of this application.

POLICIES

Glasgow City Plan 2

DEV 4 'Town Centre'

SC 11 'Food, Drink and Entertainment Uses'

SPECIFIED MATTERS

Planning legislation now requires the planning register to include information on the processing of each planning application (a Report of Handling) and identifies a range of information that must be included. This obligation is aimed at informing interested parties of factors that might have had a bearing on the processing of the application. Some of the required information relates to consultations and representations that have been received and is provided elsewhere in this Committee report. The remainder of the information, and a response to each of the points to be addressed, is detailed below.

A. Summary of the main issues raised where the following were submitted or carried out

- i. An environmental statement.
Not applicable to this application.
- ii. An appropriate assessment under the Conservation (Natural Habitats etc.) Regulations 1994.
Not applicable to this application.
- iii. A design statement or a design and access statement.
Not applicable to this application.
- iv. Any report on the impact or potential impact of the proposed development (for example the retail impact, transport impact, noise impact or risk of flooding).
Not applicable to this application.

B. Summary of the terms of any Section 75 planning agreement

Not applicable to this application.

C. Details of directions by Scottish Ministers under Regulation 30, 31 or 32

These Regulations enable Scottish Ministers to give directions

- i. With regard to Environmental Impact Assessment Regulations (Regulation 30).
Not applicable to this application.
- ii. 1. Requiring the Council to give information as to the manner in which an application has been dealt with (Regulation 31).
No direction has been made by Scottish Ministers/Not applicable.

2. Restricting the grant of planning permission.
No direction has been made by Scottish Ministers/Not applicable.
- iii. 1. Requiring the Council to consider imposing a condition specified by Scottish Ministers.
Not applicable to this application.
2. Requiring the Council not to grant planning permission without satisfying Scottish Ministers that the Council has considered the condition.
Not applicable to this application.

ASSESSMENT AND CONCLUSIONS

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that where an application is made under the Planning Acts, it shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The two main issues to consider in the assessment of this application are:-

- (a) whether the proposed accords with the Development Plan; and
- (b) whether any other material considerations have been satisfactorily addressed.

In respect of (a), the Development Plan comprises the Glasgow and Clyde Valley Structure Plan and City Plan 2. There are no specific policies of relevance to the application proposal in the Structure Plan.

City Plan 2 identifies the site as within a Town Centre Policy Principle Area. This Policy notes:

The areas designated 'TOWN CENTRE' (in terms of this development policy principle) are the City's Tier 2 (Major) and Tier 3 (Local) town centres outwith the City Centre (DEV 5) (see policy SC 1: The City's Network of Centres). Their designation is based on the size and range of their retail function, accessibility by public transport, importance as principal focal points and range of supporting community facilities. They, generally, also support residential populations living both within, and on the edge of, the Centres.

Under the sequential approach to site selection, they are, together with the City Centre (Tier 1), the preferred locations for retail and commercial leisure development. In considering proposed developments, the Council will give priority to improving the environmental quality, vitality and viability and residential amenity of these areas in accordance with policies SC 1: The City's Network of Town Centres, SC 2: Policy Objectives for Tier 1 and 2 Town Centres, SC 3: The Sequential Approach for Retail and Commercial Leisure Developments and IB 4: Office and Business Class Development. In respect of the City Centre, see also policies DEV 5: Principal Retail Area (City Centre) and DEV 6: Principal Office Area (City Centre).

The proposal involves alterations to an existing planning consent that relates to a hot food takeaway. The proposed development is considered to be consistent with this Development Policy Principle.

SC 11 focuses on food, drink and entertainment uses. Part of this policy focuses on the treatment and disposal of cooking/heating fumes. It notes that alternative methods of treatment of odours, such as carbon filtration, will be assessed by Land and Environmental Services (Environmental Health).

To accompany the submitted drawings, the applicant has provided technical details of the intended ventilation system. These details have been inspected by Land and Environmental Services (Environmental Health) and they recommend approval, subject to conditions and advisory notes. One of the recommended conditions relates specifically to the maintenance of the carbon filtration system, and is detailed to ensure that the system will not disperse cooking odours that could significantly affect surrounding residential properties. An advisory note is also being recommended to make the applicant aware that Land and Environmental Services (Environmental Health) have an obligation to investigate complaints of cooking odours from commercial premises. In the event that complaints are received and found to constitute a Statutory Nuisance, Environmental Health will be obliged to serve an abatement notice on the premises, requiring the nuisance to be abated.

It is therefore considered that the intention of installing a carbon filtration system at 484 Duke Street meets the terms of Policy SC 11 'Food Drink and Entertainment Uses'.

In terms of issue (a), the proposal is considered to be in line with the Development Plan.

In respect of (b), with regard to the representations from William Bain MP, Councillor Ruth Simpson, Councillor Alison Thewliss, Reidvale Housing Association and nine local residents, the grounds can be summarised, with appropriate comment, as follows:

1. There is no guarantee that the carbon filtration system will work as it is untested. The system could also affect the health and well being of surrounding residents.

Comment:

The carbon filtration system has been accepted by Land and Environmental Services (Environmental Health). An appropriate condition and advisory note has been recommended to ensure that the system is maintained properly, and would not affect surrounding residential properties.

2. Another hot food takeaway in the local area.

Comment:

The assessment of the use of the unit as a hot food takeaway was detailed in the original planning consent (ref: 09/00634/DC).

Conclusion

In conclusion, the proposal is considered to comply with the relevant policies of the Glasgow City Plan. Other material considerations, namely the points raised in the representations, is considered to have been satisfactorily addressed and do not outweigh the Development Plan.

In the light of all of the foregoing, it is recommended that planning permission be granted subject to the conditions.

CONDITIONS AND REASONS

01. The development shall be implemented in accordance with drawing number(s):

Proposed Front Elevation 1712/8 Rev B received 29 September 2009
 Proposed Front Elevation 1712/4 Rev B received 29 September 2009
 Proposed Alterations 1712/1 received 21 April 2009
 Block Plan 1712/9A received 21 April 2009
 Proposed Floor Plan 1712/2A received 21 April 2009
 Proposed elevation (unnumbered drawing) received 9 August 2010

as qualified by the undernoted condition(s), or as otherwise agreed in writing with the Planning Authority.

Reason: As these drawings constitute the approved development.

02. 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.

03. Disposal of Cooking Odours/Fumes

(a) All cooking smells, noxious fumes or vapours from the premises shall be extracted by means of a suitable duct terminating with a grill at low level on the rear wall. 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.

04. 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.

05. The use of the premises shall be restricted to the following days and hours of operation: 0800 hours to 2000 hours daily.

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

REASON(S) FOR GRANTING THIS APPLICATION

01. The proposal was considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's accordance with the Development Plan.

ADVISORY NOTES TO APPLICANT

01. Land and Environmental Services (Environmental Health) have an obligation to investigate complaints of cooking odours from commercial premises. In the event that complaints are received and found to constitute a Statutory Nuisance, Environmental Health will be obliged to serve an abatement notice on the premises, requiring the nuisance to be abated. The applicant should therefore be satisfied that the proposed ventilation system and the procedures for its maintenance will be sufficient to prevent cooking odours from the premises adversely affecting adjacent neighbouring properties. You are therefore advised to carry out an assessment of ventilation provision in relation to nuisance.
02. Any advertisement, other than that deemed within the terms of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, to be the subject of an application for express consent.
03. The applicant should consult with Land and Environmental Services (Environmental Health) concerning

this proposal in respect of legislation administered by that Service which is likely to affect this development.

04. Before the ventilation system for the disposal and treatment of cooking odours from the premises is installed, the applicant should submit certification from a member of the Heating and Ventilating Contractor's Association, or other suitably qualified person, to the planning authority, confirming that the proposed system will satisfy the requirements of sections (a) and (b) of the condition relating to the disposal of cooking odours/fumes.
05. Before the use commences, the applicant should, following the testing of the installed ventilation system, submit certification from a member of the Heating and Ventilating Contractor's Association, or other suitably qualified person, to the planning authority, confirming that the installation meets its design specification.
06. Construction and/or demolition work associated with this development should conform to the recommendations/standards laid down in BS5228 Part 1: 1997 "Noise and Vibration Control on Construction and Open Sites". Best Practicable Means as defined in Section 72 of the Control of Pollution Act 1974 should be employed at all times to ensure noise levels are kept to a minimum.
07. Commercial waste from the premises requires to be disposed of in accordance with the Duty of Care requirement under section 34 of the Environmental Protection Act 1990. Waste transfer notes require to be obtained for the disposal of such waste and retained for a period of two years.
08. Premises used for the purposes of a food business require to register under the Food Premises (Registration) Regulations 1991. An application form for registration of the premises or change of details of an existing registration can be obtained from Land and Environmental Services (Environmental Health).

for Executive Director of Development and Regeneration Services

DC/ DDR/p
22/11/2010

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