

## Development Management Officer Report Committee Application

| <b>Summary</b>   |  |
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| <b>Committee Meeting Date: 16 February 2016</b>  |  |
| <b>Application ID:</b>   | LA04/2015/1122/F   |
| <b>Proposal:</b><br>Retention of part change of use to Hot Food Bar  | <b>Location:</b><br>Adjacent to 14 Hillview Avenue Ballycloghan<br>Belfast BT5 6JR |
| <b>Referral Route:</b> Committee – Hot Food Bar  |  |
| <b>Recommendation:</b> Approval  |  |
| <b>Applicant Name and Address:</b><br>P Carson<br>Acapulco<br>257 Upper Newtownards Road<br>Belfast<br>BT4 3JF   | <b>Agent Name and Address:</b>   |
| <p><b>Executive Summary:</b><br/>The application seeks full planning permission for the retention of a part change of use from a cafe/sandwich bar to a hot food bar (Sui Generis). The main issues to be considered in this case are:</p> <ul style="list-style-type: none"> <li>• The principle of a hot food bar at this location;</li> <li>• Impact on residential amenity.</li> </ul> <p>No representations have been received.</p> <p>Consultees<br/>Transport NI had no objections.</p> <p>Environmental Health was consulted regarding the proposal and raised no objections. Environmental Health recommended the use of conditions to mitigate the issues of noise and odour.</p> <p>It is recommended that this application be approved with the attachment of conditions.</p> <p>Summary of Issues</p> <ul style="list-style-type: none"> <li>• The principle of a hot food bar at this location;</li> <li>• Impact on residential amenity;</li> </ul> |  |

## Case Officer Report

### Site Location Plan



#### Consultations:

| Consultation Type | Consultee               | Response     |
|-------------------|-------------------------|--------------|
| Non Statutory     | NI Transport - Hydebank | No objection |
| Non Statutory     | Environmental Health    | No objection |

#### Representations:

|   |                       |
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| Letters of Support                              | None Received         |
| Letters of Objection                            | None Received         |
| Number of Support Petitions and signatures      | No Petitions Received |
| Number of Petitions of Objection and signatures | No Petitions Received |

#### Summary of Issues

The key issues are the effect of the proposal upon the Commercial node, impact on the amenity of neighbouring residents, and character of the area.

| Characteristics of the Site and Area                            |  |
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| 1.0   | <p>Description of Proposed Development</p> <p>The proposal is for full planning permission for the retention of a part change of use from a cafe to a hot food bar (Sui Generis). The elevations are to remain unchanged. On the rear pitch of the roof an extraction duct is to be installed for an odour abatement system.</p>   |
| 2.0   | <p>Description of Site</p> <p>The site is located adjacent to 14 Hillview Avenue. The site is currently in use as a hot food takeaway with a floor space of 51.80m<sup>2</sup>. The unit shares a kitchen with the existing restaurant which fronts on to the Upper Newtownards Road. The takeaway unit was formerly used as a cafe with a takeaway operated from this unit. The building is finished in render with an aluminium shop front window and door and aluminium roller door and a black fascia. An illuminated sign is in place at fascia level.</p> <p>The site is located within a designated Commercial Node/Area of Parking Restraint as designated by the Belfast Metropolitan Area Plan. The predominant use of Hillview Avenue is residential.</p> |
| Planning Assessment of Policy and other Material Considerations |  |
| 3.0   | <p>Site History</p> <p>3.1 Z/2001/3146/F - 257 Upper Newtownards Road, Belfast, BT4 3JF (This application encompassed the proposal site) - Change of use of ground floor only from retail unit to cafe - Granted</p> <p>3.2 Z/2003/1724/F - 255-257 Upper Newtownards Road, BT4 3JF and 8-12 Hill Avenue, Belfast, Bt5 6JR (This application encompassed the proposal site) - External alteration including removal of timber cladding, new windows to Hillview Avenue and new security gates – Granted</p>  |
| 4.0   | <p>Policy Framework</p> <p>4.0.1 Regional Development Strategy</p>   |
| 4.1   | <p>4.1.1 Belfast Metropolitan Area Plan 2015</p>   |
|   | <p>4.1.2 Policy R 4 – Arterial Routes and Local Centres</p>  |
|   | <p>4.1.3 Policy Tran 1 – Parking Standards within areas of Parking Restraint</p>   |
| 4.2   | <p>4.2.1 Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development</p> <p>4.2.2 Planning Policy Statement 3: Access, Movement and Parking</p> <p>4.2.3 Development Control Advice Note (DCAN) 4 – Restaurants, Cafes and Fast</p>  |

|     | Food Outlets   |
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| 5.0 | Assessment   |
| 5.1 | The proposal is considered to be in compliance with the development plan.  |
| 5.2 | <p>5.2.1 The key issues are the effect of the proposal upon the Commercial node, impact on the amenity of neighbouring residents, and character of the area.</p> <p>5.2.2 As the site is located within a designated Commercial Node/Area of Parking Restraint on an arterial route, Policy R4 of the Belfast Metropolitan Area Plan 2015 is a material consideration. The retail unit has been vacant and the proposed change of use would bring into use unused floor space in the designated shopping and commercial area. Policy R4 is silent in relation to hot food takeaway use; however the proposal is considered acceptable in the commercial node and would not have an adverse impact on the vitality and viability of the commercial node and the surrounding shopping and commercial area. The residential amenity, traffic movement and road safety in the area will not be detrimentally impacted upon by the proposal (Transport NI have no objections).</p> <p>5.2.3 As the site is located within a designated Commercial Node/Area of Parking Restraint on an arterial route, Policy Trans 1 of the Belfast Metropolitan Area Plan 2015 is a material consideration. Transport NI has considered the proposal, the previous commercial use of the site, its location within a Commercial Node on an Arterial Route and deemed it to be acceptable and in compliance with Planning Policy Statement 3: Access, Movement and Parking.</p> <p>5.2.4 The SPPS supersedes Planning Policy Statements 1: General Principles, 5: Retailing and Town Centres and 9: The Enforcement of Planning Control. Transitional arrangements are in place that all remaining Planning Policy Statements apply until a Plan Strategy for the whole Council area is adopted.</p> <p>5.2.5 Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.</p> <p>5.2.6 In terms of Development Control Advice Note 4 a number of factors need to be considered in terms of noise disturbance, smells and fumes, refuse and litter, traffic considerations and car parking and provision for people with disabilities.</p> <p>5.2.7 Noise Disturbance<br/>DCAN 4 refers to various sources of noise disturbance in terms of vehicles, people and associated equipment with catering facilities. Environmental Health has recommended the attachment of conditions to mitigate against the impact on amenity by noise. In line with advice from DCAN 4 it is recommend that a condition to restrict the opening hours of the hot food bar be attached, which in turn will ensure the associated catering equipment will not be used at unsociable hours which will have a knock on effect of reducing noise disturbance from vehicles and people as the hot food bar will be closed.</p> |

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|     | <p><b>5.2.8 Smell</b><br/>BCC's Environmental Health Department were consulted with the proposal and recommended the attachment of conditions for the provision of an odour abatement system and are content that the potential issue of smell can be overcome by use of an odour abatement system that would be conditioned. The proposal will make use of the existing odour abatement system from the kitchen it shares with the existing restaurant. Environmental Health is content and a condition to ensure the odour abatement system must be cleaned and maintained in accordance with the manufacturer's instructions.</p> <p><b>5.2.9 Refuse and Litter</b><br/>Environmental health has recommended the attachment of an informative that the applicant shall provide litter bins inside and outside the premises and ensure such receptacles are adequately serviced and maintained</p> <p><b>5.2.10 Traffic considerations and car parking</b><br/>As discussed at 5.2.3 of this report Transport NI were consulted and has no objection to the proposal.</p> <p><b>5.2.11 Provision for people with disabilities</b><br/>The site has a level access with ramped access provided from the pavement to all of the units.</p> <p><b>5.2.12 The existing commercial activity for the previous cafe use since 2001 has established a commercial use at this location. The hot food takeaway has been in operation for approximately a year and half and no complaints from the public or neighbours have been received. The site is located within a designated Commercial Node/Area of Parking Restraint and the commercial use as a hot food takeaway is acceptable at this location. The prominent use of Hillview Avenue is residential; however the site is located near the commercial node at the end of the street closest to the Upper Newtownards Road. An opening hours condition and delivery hours condition as per Environmental Health's recommendation will mitigate any potential noise issues arising from the proposal.</b></p> <p><b>5.2.13 Taking all factors into consideration on balance, the proposal is considered acceptable and planning permission is recommended.</b></p> |
| 5.3 | <p>Having regard to the policy context and other material considerations above, the proposal is considered acceptable and planning permission is recommended subject to conditions for the following reasons. Opening hours and delivery hours conditions to protect the amenity of neighbouring residents.</p>  |
| 6.0 | <p><b>Summary of Recommendation: Approval</b></p> <p>Relevant planning policy fully considered. Previous commercial use since 2001 and site being located within a designated Commercial Node/Area of Parking Restraint considered. No objections to the proposal from consultees or neighbours. The amenity of nearby residents will not be adversely affected by the proposal.</p>   |

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| 7.0 | <p>Conditions</p> <p>1. This permission is valid from the date on which the development was carried out under Section 55 of the Planning Act (Northern Ireland) 2011.</p> <p>Reason: This is a retrospective application.</p> <p>2. The hot food bar shall not open for business prior to 07.30hrs or after 23.00hrs.</p> <p>Reason: In the interests of residential amenity.</p> <p>3. Deliveries and collections by commercial vehicles to and from the development shall only be made between the hours of 07.00 and 23.00hrs.</p> <p>Reason: In the interests of residential amenity.</p> <p>4. The extraction and ventilation system must be cleaned and maintained in accordance with the manufacturer's instructions to ensure compliance with the above condition.</p> <p>Reason: In the interests of residential amenity.</p> <p>Informatives</p> <p>1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.</p> <p>2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.</p> <p>3. CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT (NORTHERN IRELAND) 2011</p> <p>The applicant is advised to ensure that all plant and equipment used in connection with the hot food bar is so situated, operated and maintained as to prevent the transmission of noise to nearby residential accommodation.</p> <p>4. GAS SAFETY (INSTALLATION AND USE) REGULATIONS (NORTHERN IRELAND) 2004</p> <p>Where gas appliances are to be installed there must be a fixed source of ventilation provided to ensure sufficient make-up air is available for the safe combustion of gas.</p> <p>5. THE LITTER (NI) ORDER 1994</p> <p>In order to prevent nuisance arising from litter the applicant shall provide litter bins inside and outside the premises and ensure such receptacles are adequately serviced and maintained.</p> |
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| 8.0 | Notification to Department (if relevant)<br><br>Not Applicable |
| 9.0 | Representations from Elected members: None                     |

| <b>ANNEX</b>  |                     |
|---|---------------------|
| <b>Date Valid</b>   | 23rd September 2015 |
| <b>Date First Advertised</b>  | 16th October 2015   |
| <b>Date Last Advertised</b>   |                     |
| <p><b>Details of Neighbour Notification</b> (all addresses)</p> <p>The Owner/Occupier, Candid House,255A Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, Candid House,255A Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, Candid House,255A Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, Candid House,255A Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, Candid House,255A Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, Candid House,255A Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, 1 Hillview Avenue,Ballycloghan,Belfast,Down,BT5 6JR,<br/> The Owner/Occupier, 16 Hillview Avenue,Ballycloghan,Belfast,Down,BT5 6JR,<br/> The Owner/Occupier, 253 Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, 255 Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, 273-275,Upper Newtownards Road,Ballycloghan,Dundonald,Down,BT4 3JF,<br/> The Owner/Occupier, 3 Hillview Avenue,Ballycloghan,Belfast,Down,BT5 6JR,<br/> The Owner/Occupier, Kirkpatrick Memorial Presbyterian Church,Eastleigh Crescent,Ballycloghan,Belfast,Down,BT5 6HT,</p> |                     |
| <b>Date of Last Neighbour Notification</b>  | 16th November 2015  |
| <b>Date of EIA Determination</b>  | N/A                 |
| <b>ES Requested</b>   | No                  |
| <p><b>Planning History</b></p> <p>Ref ID: Z/2001/3146/F<br/> Proposal: Change of use of ground floor only from retail unit to cafe.<br/> Address: 257 Upper Newtownards Road,Belfast,BT4 3JF<br/> Decision: Granted<br/> Decision Date: 27.02.2002</p> <p>Ref ID: Z/2003/1724/F<br/> Proposal: External alteration including removal of timber cladding, new windows to Hillview Avenue and new security gates (Amended Description)<br/> Address: 255-257 Upper Newtownards Road, BT4 3JF and 8-12 Hill Avenue, Belfast,</p>   |                     |



Bt5 6JR  
Decision: Granted  
Decision Date: 02.01.2004

**Summary of Consultee Responses**

Transport NI and Environmental Health have no objections to the proposal and recommended the attachment of conditions and informatives.

**Drawing Numbers and Title**

No. 01 Site Location Plan

No. 02 Block Plan and Floor Plan