

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2021/62/91208/E

Site Address: Former Pizza Hut Restaurant, Centre 27 Business Park, Bankwood Way, Birstall, Batley, WF17 9TB

Description: Installation of drive-thru lane and associated engineering works, alterations to car parking and servicing arrangements and associated changes to landscaping. Demolition of existing enclosed yard and provision of replacement bin store, minor alterations to the building and elevations including recladding

Recommending Officer: Olivia Roberts

DECISION – CONDITIONAL FULL PERMISSION

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Paul Dowd

AUTHORISED OFFICER

Date: 11-Jun-2021

Officer Report

Site Description

The application relates to the former Pizza Hut Restaurant, which is located within the Centre 27 Business Park at Birstall, Batley. The site comprises a detached, single storey purpose-built building, which is constructed from brick for the walls with cladding for the roof. The building is positioned towards the east of the site, with a car park to the west. There is a waste storage area to the north of the building, which is currently accessed to its eastern elevation. The site includes landscaping to its perimeter.

The site is located within the Centre 27 Business Park, surrounded by commercial uses. Gelderd Road runs to the north-west of the site, though it is noted that access is taken from within the business park to the south of the application building.

Description of Proposal

The application seeks planning permission for the installation of a drive-thru lane and associated engineering works, alterations to the existing car parking and servicing arrangements and associated changes to landscaping. Demolition of the existing enclosed yard and provision of replacement bin store, minor alterations to the building and elevations including recladding.

A drive-thru lane is proposed to the west of the entrance to the site, which would run to the northern elevation of the building. The lane would include two points of access, guided by two raised islands. To facilitate the provision of the drive-thru lane, alterations are proposed to the layout of the carpark. Minor alterations to the existing landscaping are proposed to facilitate the drive-thru lane and layout alterations. The existing enclosed yard and bin store to the north of the building would be demolished and a replacement bin store would be provided to the western elevation of the building.

Two customer order displays are proposed for the side-by-side ordering section of the drive-thru. The displays would be located on the raised islands and would measure 1.6m in height by a maximum of 0.75m in width. A height restrictor is proposed to the entrance of each of the two side by side order points. The height restrictors would have an overall height of 3.95m, with a 3.6m height restriction.

The external brickwork of the building would be painted black. Where the existing enclosed yard would be removed from the northern elevation of the building, the wall would be finished in black metal cladding. Brown cladding with a cream infill is proposed to all elevations of the building to create a parapet style roof form, which would sit approximately 1.3m above the highest, central part of the existing roof form. Alterations to the existing fenestration are proposed as part of the development.

The submitted plans indicate the installation of new and replacement signage. The signage is subject to consideration under an associated application for advertisement consent reference 2021/91209, which is pending determination and will not, therefore, be assessed as part of this planning application.

History of negotiations/amendments received

A revised site plan has been submitted during consideration of the application including additional details and information in response to a consultation response received by the Council's Highways Development Management team. Due to the nature of the amendments, the amended plan has not been advertised to the public in this case.

Relevant Planning History

90/03120 – Erection of pizza hut free-stander. Approval of reserved matters.

88/01713 – Outline application for business park and leisure incorporating multi-screen cinema and fast-food. Granted.

Representations

The application was advertised by neighbour letters, which expired on 18th May 2021.

Four representations have been received as part of the above publicity, three representations against and one in support.

A summary of the material considerations raised follows:

- Change of use would be required.
- Another drive through in this location is unacceptable.
- Concerns regarding increased congestion, traffic and safety within the area. Insufficient information submitted to demonstrate that the

proposal would have an acceptable impact on the existing road network.

- Concern over litter.

All comments have been carefully considered during the assessment of the application and officer comments regarding material planning considerations will be made in Section 6 of this report.

Parish/Town Council: not applicable.

Consultation Responses

KC Highways Development Management (HDM) – Following the receipt of a revised proposed site plan, no objections have been raised.

KC Environmental Health – No objections to the proposed development.

KC Strategic Waste – No objections to the proposed development.

Health & Safety Executive (HSE) – No objections to the proposed development.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan :

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highway and access
- LP 22 – Parking
- LP 24 – Design
- LP30 – Biodiversity and geodiversity
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality
- LP 53 – Contaminated and unstable land

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong and competitive economy
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan (KLP), policy LP1 of which states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

Chapter 6 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt.

In this instance, the application relates to an existing commercial unit. The proposal would introduce a drive-thru lane, with associated alterations to the carparking and servicing arrangements and landscaping, as well as alterations to the external appearance of the building. The principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

These issues along with other policy considerations will be addressed below.

2 – Impact on visual amenity:

The proposed development would significantly alter the appearance of the building from existing and would also pose changes to the existing carpark and landscaping. The site is located within a retail park, which comprises properties that are commercial in their appearance. The neighbouring units vary in terms of their scale, character and overall appearance and it is noted that there is an extensive palette of materials within the area as existing, which includes stone, brick and cladding of various colours and materials. Whilst the use of cladding and dark colour scheme would contrast the existing red brick construction of the building, the impact on the visual amenity of the property is considered acceptable and it is deemed that the building, following development, would not appear out of keeping with the character and commercial nature of the surrounding area. The proposed bin store would be surrounded by timber fencing and would have an appearance typical of this kind of development, finished in black to correspond with the colour scheme of the host building. The introduction of a drive-thru lane, customer order points, height restrictors and associated carpark and landscaping alterations are considered to have an acceptable impact on the visual amenity of the site and the wider area, which would be reflective of its commercial setting.

In summary, the impact on the visual amenity of the host building, site and wider area is considered acceptable, in accordance with Policy LP24 of the KLP and the aims of Chapter 12 of the NPPF.

3 – Impact on residential amenity:

The application site is located within an existing retail park, surrounded by commercial development. As such, it is considered that the proposed development would not have any impact on residential amenity. It is noted that the site comprises an existing unit, and the application proposes changes to the elevations of the building as well as alterations to the existing car park, servicing arrangements and landscaping, to allow for the installation of a drive

through lane. The Council's Environmental Health officer has reviewed the submitted information and has raised no objection to the proposed development.

Having reviewed the above, the proposal is considered to result in no adverse impact upon the residential amenity of any surrounding properties, thereby complying with Policies LP24 and LP52 of the KLP and the aims of Chapter 12 of the NPPF.

4 – Impact on highway safety:

The application relates to the former Pizza Hut Restaurant, which has previously operated as a restaurant and takeaway. The submitted planning statement details that the proposed use would continue to operate as a restaurant and takeaway and, therefore, the change of use of the premises is not being considered as part of the planning application. Whilst external alterations are proposed as part of the development, the internal floor area of the premises would not be increased as part of the proposal. Whilst the drive-thru would result in some intensification in the existing takeaway provision, when taking the above into consideration, the impact on highway safety is considered acceptable. The Highways DM officer has also been consulted during consideration of the application and has raised no objection to the installation of a drive-thru lane at the site. Whilst some concern was initially raised to the dimensions of the parking spaces and the drive-thru lane, an amended site plan and information has been submitted during consideration of the application, in addition to the details included within the supporting Transport Statement. Following review of the additional information, no objection has been raised to the proposed development from a highway safety perspective. A condition has, however, been recommended regarding the layout of the carpark, in accordance with the submitted details, before the development is brought into use and this will be attached to the decision notice.

Subject to the inclusion of the above condition, the impact of the proposed development on highway safety is considered acceptable, complying with Policies LP21 and LP22 of the KLP.

5 – Other matters:

Ecology and Landscaping

To facilitate the installation of the proposed drive-thru lane and the subsequent alterations to the layout of the site, alterations are proposed to the existing landscaping. An Arboricultural Impact Assessment has been

submitted in support of the application, as well as a proposed site plan and landscape plan, which illustrates the changes to the existing landscaping that are proposed. The submitted information has been reviewed and the proposed loss of soft landscaping within the site is considered minimal. It is noted that some areas of replacement landscaping and planting are proposed as part of the development, which is considered to reduce to the impact of the proposal, both with regards to the impact on visual amenity and the natural environment. It is noted that the trees which are to be removed as part of the application, are not protected by a Tree Preservation Order, nor is the site located within a Conservation Area. As such, the impact of the proposed alterations to the existing landscaping is considered acceptable.

The site is located within the bat alert layer and, therefore, consideration must be given to the impact of the proposed development on bats and bat roosts. The building itself appears to be well-sealed and there is no evidence of bats, nor bats roosts. The work proposed to the roof form of the main building would be limited and, as such, the impact of the alterations upon the existing property are considered acceptable. The proposed changes to the landscaping of the site are considered minimal and it is noted that some replacement landscaping and planting would be provided as part of the development. As such, the proposal is considered to have an acceptable impact regarding ecology, complying with Policy LP30 of the KLP.

Coal Mining Legacy

The application site is located within a high-risk coal mining area and, as such, consideration must be given to the impact of the proposed development on past coal mining legacy. The alterations to the building would not include groundworks and the provision of the replacement bin store is considered to fall under the Coal Authority's exemptions list. Whilst engineering works are proposed to alter the layout of the carpark and provide a drive-thru lane, the nature of these operations has been reviewed and, in this case, it is considered that the required engineering works would be minimal. As such, it is considered that this element would also fall under the exemption list, not requiring the submission of a Coal Mining Risk Assessment.

In this case, for the reasons set out above, the submission of a Coal Mining Risk Assessment has not been requested and The Coal Authority has not been consulted on the application. However, as a precautionary measure, an informative note shall be added to the decision notice, in accordance with Policy LP53 of the KLP.

Contaminated Land

The application site is identified as being located within proximity of a hazardous material site and the buffer of a historic landfill site. The HSE was consulted during consideration of the application and has raised no objection to the proposal. The Council's Strategic Waste team also commented on the application. Due to the nature of their findings, as well as that of the proposed development, no further actions or conditions are considered necessary in this case.

Carbon Budget

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The application relates to alterations and changes to the layout of existing commercial premises. Whilst the proposal would include the installation of a drive-thru lane, it is considered that the proposal would be unlikely to result in an intensification of the building, which would have an impact on climate change, requiring mitigation. For this reason, the proposed development is considered to comply with Policy LP51 of the KLP and Chapter 14 of the NPPF.

6 – Representations:

The material considerations have been reviewed as part of the assessment of the application and the impact of the proposed development is considered acceptable. A response to the key material concerns raised follows:

- Change of use would be required.

Response – The existing building has previously operated as a restaurant with takeaway facilities and, as such, it is considered that a change of use application would not be required. The proposed drive-thru, whilst ancillary to

the main use of the building, would result in some intensification in the takeaway facility. However, all aspects of the drive-thru have been considered as part of this planning application.

- Another drive-thru in this location is unacceptable.

Response – The installation of a drive-thru has been considered throughout the assessment of the application and addressed within this report. The introduction of a drive-thru lane to the site, in this case, is considered acceptable.

- Concerns regarding increased congestion, traffic and safety within the area.
Insufficient information submitted to demonstrate that the proposal would have an acceptable impact on the existing road network.

Response – Concerns regarding highways safety have been addressed within the impact on highway safety section of this report and are considered acceptable.

- Concern over litter.

Response – The proposed building would continue to operate as a restaurant and takeaway. It is however acknowledged that the introduction of a drive-thru lane could result in additional litter at the site. The proposed site plan shows that litter bins would be provided around the main building, which are considered sufficient for the purposes of this planning application.

7 – Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and it is, therefore, recommended for approval.

Recommendation: **Approve**

Decision Authorisation - Delegated Powers

Application Number: 2021/91208

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP22 and LP24, of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. Prior to the development being brought into use, the proposed carpark hereby approved shall be marked out into bays in accordance with details that have been previously approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety and to achieve a satisfactory layout in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours, Mondays to Fridays, 08.00 and 13.00 hours, Saturdays, with no working on Sundays or Public Holidays. In some cases, different site-specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services may control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location Plan	7330-PL-00.1	A	23/03/2021
Existing Site Plan	7330-PL-01.2	A	23/03/2021
Existing Elevations	7330-PL-01.3	-	23/03/2021
Existing Floor Plans	7330-PS-01.4	-	23/03/2021
Proposed Site Plan	7330-PS-01.5	B	13/05/2021
Proposed Elevations	7730-PL-01.6	-	23/03/2021
Proposed Elevations (With Adverts)	7730-PS-01.7	-	23/03/2021
Proposed Floor Plans	7330-PS-01.8	-	23/03/2021
Proposed Bin Store	7330-PL-01.9	-	23/03/2021
Arboricultural Impact Assessment	March 2021	-	23/03/2021
Transport Statement	2010-037/TN/01	-	23/03/2021
Planning Statement	March 2021	-	23/03/2021
Site Plan (With Adverts)	7330(ADV)DTS-0.2	B	23/03/2021
Height Limiter	7330(ADV)DTS-3A	-	23/03/2021
Order Points	7330(ADV)DTS-5	-	23/03/2021

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

An amended site plan was submitted during consideration of the application in response to a consultation response received by the Council's Highways Development Management Officer. The amended plan was assessed during consideration of the application and the decision is based on the plans and conditions listed.

Report Dated:

11/06/2021

