

Consultation Response from KC Policy**2023/92635 31, Wharf Street, Savile Town, Dewsbury, WF12 9AT****Change of use from clothes shop to cafe with hot food takeout****Date Responded: 10/10/2023****Responding Officer: NR****Responding Ref:**

This application is for the change of use of 57.5 sq. m of floorspace from a clothes shop to a café with a hot food takeout at 31 Wharf Street, Savile Town, Dewsbury, WF12 9AT. The site is located approximately 275m from the boundary of Savile Town Local Centre (LCB46) and 600m from the boundary of Dewsbury Town Centre (TCB2) as designated in the Kirklees Local Plan, which was adopted on 27th February 2019. The site is also located within Flood Zone 2 (both SFRA and EA Flood Zones). The Kirklees Local Plan and National Planning Policy Framework should be fully considered however the following response relates to specific policies in the Local Plan and NPPF which are of particular relevance to the proposal. Other policies that are not mentioned here may also apply.

Currently, the premises are in use as a clothes shop (E(a) - Display or retail sale of goods, other than hot food) and the change of use would result in a café with a hot food takeaway (Use Class Sui Generis). The site is therefore subject to the town centre policies in the Kirklees Local Plan along with the principles in the Hot Food Takeaways SPD.

Kirklees Local Plan**Policy LP13 – Town Centres****Part B – Retail Sequential Test**

Part B of Policy LP13 states that proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries will require the submission of a Sequential Test. Main town centre uses shall be first located in the defined centres and only if there are no suitable sites shall out of centre locations be considered. The NPPF defines edge of centre locations as being those within 300m from a centre boundary. With this site being located outside of a defined centre but within 300m of the nearest centre at Savile Town, the site is considered to be in an edge of centre location and therefore a retail sequential test will need to be submitted by the applicant.

Further advice on the retail sequential test is set out in paragraph 9.12 which states that sequential tests should provide evidence on the following details:

- The business model for the development
- An appropriate catchment that the business would seek to serve in accordance with the Shopping Centre Hierarchy Table (i.e. where will the customers be coming from).
- An appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification.

Whilst the nearest defined centre is Savile Town, it may be the case that customers using the proposed development also come from a wider area (e.g. Dewsbury Town Centre) so these centres may need to be considered in the sequential test.

Part C – Impact Assessment

With the application proposing the change of use of 57.5 sq. m of floorspace, it does not meet any of the relevant thresholds at which a retail impact assessment will be required.

LP16 – Food and drink uses and the evening economy

With this site being located outside of a defined centre, it is subject to criterion b to g in Policy LP16 and further advice on this policy will be available from other consultees. As established above, the applicant will need to submit a retail sequential test but a retail impact assessment will not be needed.

Flood Risk

The proposed change of use is located within Flood Zone 2 (EA and SFRA) where there is a medium probability of flooding. Buildings used for restaurants, cafes and hot food takeaways are a less vulnerable use set out in the flood risk classification, Annex 3 of the NPPF. Paragraph 168 of the NPPF states that applications for some minor developments and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 55 which states that site-specific flood risk assessments are required for all development in Flood Zones 2 and 3. Therefore, the applicant will need to submit a flood risk assessment.

Hot Food Takeaways SPD

With the proposal incorporating a hot food takeaway use and the applicant stating in the application form that it will come under a hot food takeaway use class this site needs to be assessed against the principles in the Hot Food Takeaways SPD.

HFT1 – Public Health Toolkit

This site has been assessed against the Public Health Toolkit in the HFT SPD and scores 4 which means that this application complies with Principle HFT1. Further advice is available from the Public Health team.

HFT2 – Town Centre Vitality and Viability

With the proposal being located outside a defined centre, principle HFT2 will not apply to this proposal.

HFT3 – Proximity to Schools

Principle HFT3 states that where planning permission is sought for a hot food takeaway (new or variation of condition) within 400m of the principal entry point to a primary (infant and/or junior or middle) or secondary school, and the proposal meets planning policy in all other respects, planning permission will only be permitted subject to the condition that opening hours are restricted to the following:

- **A primary school (infant and/or junior or middle):** the hot food takeaway is not open to the public between 3pm to 5pm weekdays and there are no over the counter sales during these times.
- **A secondary school:** the hot food takeaway is not open to the public before 5pm on weekdays and there are no over the counter sales before that time.

The site is within 400m walking distance of the following schools:

- Madni Muslim Girl's High School (Secondary)
- Rida Girls High School (Chapel St) (Secondary)
- Rida Girls High School (Warren St) (Secondary)
- Savile Town CE (VC) I & N School (Primary)

Currently, the application proposes opening hours of 07:00 to 14:00 and whilst these hours may be acceptable at weekends and for proposals within 400m of a primary school, the site is also within 400m of three secondary schools and as set out in paragraph 4.16 of the HFT SPD, there are issues with pupils leaving secondary schools at lunchtimes to access hot food takeaways and visiting hot food takeaways to purchase food after school. Therefore, if the application is approved, there will need to be a condition in place restricting the opening hours of the hot food takeaway so that it is not open before 5pm on weekdays.

Other principles in the HFT SPD

There are other principles in the HFT SPD which will also need to be considered:

- HFT4 which seeks to control odours and noises arising from hot food takeaways. The applicant

has not submitted an Odour and Noise Impact Assessment and therefore needs to do so.

- HFT5 which seeks to manage waste issues arising from hot food takeaways e.g. appropriate siting of bin stores and use of sustainable food packaging. The applicant has not submitted a Waste Management Strategy and therefore needs to do so.
- HFT6 which considers impacts of hot food takeaway proposals on safety and residential amenity.
- HFT7 which states that proposals for hot food takeaways will be refused where they have an unacceptable adverse impact on highway safety.

Upon submission of these documents, further advice on these principles will be available from other consultees.

Conclusion

The following issues need to be resolved:

- A retail sequential test needs to be submitted and passed due to the premises being located outside of a defined centre.
- A flood risk assessment will also need to be submitted due to the premises being located within Flood Zone 2.
- With regards to the HFT SPD:
 - If the application is approved, there will need to be a condition restricting the opening hours of the hot food takeaway.
 - The applicant will need to submit an Odour and Noise Impact Assessment along with a Waste Management Strategy.