

**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:	2023/62/92635/E
Site Address:	31, Wharf Street, Savile Town, Dewsbury, WF12 9AT
Description:	Change of use from clothes shop to cafe with hot food takeout
Recommending Officer:	Nicole Helliwell

DECISION - REFUSE

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 09 August 2024

Officer Report

Reference no. 2023/62/92635/E

Site Address: 31, Wharf Street, Savile Town, Dewsbury, WF12 9AT

Proposal: Change of use from clothes shop to cafe with hot food takeout

Site Description

The application relates to 31 Wharf Street, a two-storey mid-terrace property situated in Savile Town, Dewsbury. The wider area comprises a combination of residential and commercial properties of similar materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity.

Description of Proposal

The application seeks planning permission to change the use from a clothes shop (Class E a) to a café with hot food takeout (Sui Generis). Permission is not required for the internal alterations to the building and therefore, the only matter for consideration is the proposed change of use. The details of the proposal are summarised below:

- The proposal would include no external alterations to the original building.
- The café with hot food takeout would open Monday-Friday from 07:00am – 14:00pm.

History of negotiations/amendments received

No amendments were sought or received during the course of the application.

Relevant Planning History

- **2006/92782:** Change of use and extension to existing dwelling to form ground floor bedsit with living accommodation over. [Planning application details | Kirklees Council](#) - Conditional Full Permission
- **2005/92024:** Erection of 1st floor extension over shop to form additional living accommodation. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2005/92023:** Change of use of dwelling into ground floor shop and first floor living accommodation and erection of extension. [Planning application details | Kirklees Council](#) – Refused
- **2004/95484:** Change of use of dwelling to ground floor shop ancillary to hairdressing salon. Erection of extensions, formation of first floor living accommodation. [Planning application details | Kirklees Council](#) – Refused
- **98/93021:** Erection of extension to dwelling to form hairdressers shop. – Conditional Full Permission
- **98/91886:** Erection of extension to dwelling to form hairdressers. [Planning application details | Kirklees Council](#) – Refused

Representations

The application was advertised by neighbour letters, which expired on 27th October 2023. As a result of the above publicity, five representations have been received. The comments made have been summarised below:

- We already have a lack of parking spaces that are available during the day. The customers of the adjacent businesses typically park in residential spots and cause a massive inconvenience to me, my family and no doubt other residents. I fear this will become more severe with the opening of this business as there isn't any parking spaces available for the workers, let alone customers.
- This business will add to the already problematic congestion/traffic this street currently experiences, as all internal town traffic flows through this street. To add another business in an already over congested street is irrational as it will worsen the traffic.
- I'm concerned about the increase in littering, which is already a concern having seen cans, chips and sauces littered over the road and footpath over the last 3 months. This new business I fear will add to the littering and exacerbate an ongoing rat issue.
- I'm concerned about noise the business will add, odours of food from the business and overflowing bins which is not uncommon in food places.
- The opening hours on form state only Mon-Fri however, sticker on the door of the business include Saturday and Sunday
- This is very busy street and we only have parking space opposite our home. During day we can't park our car in street due to tyre place and take away opposite also barber shop customers park near our home.
- We also have concerns regarding hygiene issue. One take away opposite tyre place, customer put rubbish outside take away and we find quite few rubbish in our street.
- We have seen few big rats in our street during day.
- We have elderly people living in our house and one big concern is while going to the mosque or for medical we can't park our car outside our home due to customers from tyre place, barber shop and take away parking outside our house.
- Also, regarding opening ours it says on application that Monday to Friday but on sign on door says 7 days a week. According to the sign on the door, they are planning to open from 6th October without planning approval.
- The addition of a food business on Wharf Street is likely to increase traffic congestion in an already busy area. This may pose safety risks for pedestrians and other road users.
- Operating a food business often involves significant noise levels, particularly during peak hours. This could disrupt the peaceful ambiance of our residential neighbourhood.

- Food businesses must adhere to strict hygiene standards to ensure the safety of the community. It is imperative that the council thoroughly assesses the applicant's plans for waste disposal and food safety measures.
- A poorly managed or incompatible business can have a negative effect on property values in the area, which could detrimentally affect homeowners in the vicinity.
- It is important that any new business conforms to existing zoning and planning regulations. I urge the council to carefully consider whether this proposed establishment aligns with the current zoning laws for Wharf Street
- The shop front is bulky, unattractive, and not in keeping with the row of stone fronted terraced properties of which it forms a part of.
- Whilst it is recognised that the previous clothes shop also contained the black box like fascia, it is felt that this application offers the opportunity to remove this and replace it with something much simpler in design and more in keeping with the character and appearance of the host property.
- The proposed signage appears to have been just 'stuck on' without much consideration given to scale, design or detailing. No details have been provided within the application concerning the signage either, including materials.
- Any bin storage at the front of the premises would also have a detrimental impact on visual amenity, and any increase to on-street parking as a result of the development would further degrade the overall character of the area.
- The location of hot food takeaways outside of defined centres not only has the potential to cause harm to the vitality and viability of centres, but also has a negative impact on the character and amenity of residential areas in particular, such as this area of Wharf Street.
- The fact that there are now two hot food takeaways on this residential street within 30 metres of one another is also considered to be inappropriate with regard to visual amenity, as well the potential impacts on the health of the local community.
- Wharf Street and the surrounding roads are relatively narrow with limited off-street parking availability. As such, given the nature of the area, the roads are already heavily congested with residential and industrial traffic and on-street parking.
- It is considered that the proposed development would further increase the volume of traffic using Wharf Street.
- The application site does not include any customer parking, and as a result, customers visiting the premises would be required to park on Wharf Street where space is already limited and demand for on-street parking from residents and existing business users is already high.

- The increase in traffic and on-street parking would further reduce visibility for road users and restrict the free flow of traffic along Wharf Street. The application site is also located close to a bend in the road which further increases highway safety concerns.
- The increase in traffic associated with the proposed development would also lead to increased noise levels and disturbance for local residents.
- Although the premises is not proposed to operate during unsociable hours, car engines left running outside of the premises and car doors opening and shutting on a regular basis would, in our view, cause undue harm to the residential amenity of neighbouring residents.
- It also seems odd that the applicant doesn't expect any delivery vehicles to visit the premises. Even if this is the case, the applicant themselves would still need to park on Wharf Street to unload their stock and supplies from their own vehicle if transporting them from their home.
- The application form states that the change of use started in August 2023. As such, the application is considered to be retrospective, or at least part retrospective, and this should therefore be made clear within the description of the proposal.
- As already noted by KC Policy and KC Environmental Health (Pollution & Noise Control), several reports and plans are also missing from the application. Therefore, it is considered that the proposed development should be refused on the grounds of insufficient information.
- Some of the food dishes that are shown on the menu cannot be cooked on a normal domestic hob and would require a fully functioning commercial style kitchen. With this in mind, it is highly unlikely that a domestic style extraction system would be adequate for the proposed development. Contrary to what the applicant states, the property is a mid-terrace property and is therefore joined to, and not separate from other residential dwellings
- With regards to the 'limited hours of operation,' it is also questionable as to whether these will be limited to 0700 to 1400 hours Monday to Friday. The applicant's menu refers to a 'weekend special,' and the applicant's Sequential Test document also states that the business will be 'predominantly open during the day and not on an evening.'
- The application form states that two bins are being provided by the local authority and collected via business waste. Other than this, the application, including the submitted plans, contains no details regarding waste. This is of great concern to our clients.
- The application site is small, and the red line boundary on the Location Plan only includes the building and a very small area of land at the front of the building. If the bin store cannot be located within the building, (which seems likely given the size of the premises), where exactly are the bins going to be stored?

- Locating them at the front of the property would be completely inappropriate in our view as they would detrimentally affect visual amenity and the character of the street scene and would also likely cause some obstruction to the public footpath.
- The bins are highly likely to cause an odour nuisance to neighbouring dwellings whether they are located at the front or rear.
- Our clients are also concerned that the proposed development would increase the amount of litter along Wharf Street and the surrounding area.
- The increase in litter would also have a negative impact on the visual amenity of the area as well as potentially increasing odours and vermin.
- On bin collection day, it is unclear how the bin would be collected from the side of the property as it's a mid-terrace! To bring the bin round to the front of the property would be less than straight forward too.
- Our clients are therefore concerned that the bin may end up being permanently located at the front of the property, which would be of detriment to visual amenity and the character of the area.

Parish/Town Council Comments

Not Applicable.

Local Ward Members

Not Applicable.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

KC Highways DM – No objection

KC Environmental Health – Further information is required pre-determination

KC Public Health - The application has a score of 26. Based on this evidence, there are a number of health indicators which are worse than the Kirklees average.

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are 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 Proposals Map and is situated within the Strategic Green Infrastructure Network. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 7** - Efficient and Effective Use of Land and Buildings
- **LP 13** – Town Centre Uses
- **LP 16** – Food and Drink Uses and the Evening Economy
- **LP 21** - Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 27** - Flood Risk
- **LP 28** - Drainage
- **LP 31** - Strategic Green Infrastructure Network
- **LP 44** – New Waste Management Facilities
- **LP 47** - Healthy, Safe and Active Lifestyles
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

In this case, the following SPDs are applicable:

- Kirklees Waste Management Design Guide for New Developments (2020)
- Kirklees Highways Design Guide SPD (2019)
- Kirklees Hot Food Takeaway SPD (2022)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 20th July 2021, 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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 7** – Ensuring the Vitality of Town Centres
- **Chapter 8** – Promoting Healthy and Safe Communities
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change

Assessment

1. Principle of Development

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. 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. The site is also located within Flood Zone 2 (both SFRA and EA Flood Zones). 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 within the Kirklees Hot Food Takeaways SPD.

Town Centre Use

The proposal is for a main town centre use in an edge-of-centre location, less than 300m away from the nearest designated centre at Savile Town Local Centre (LCB46). As such, Policy LP13 criteria B of the Kirklees Local Plan is therefore relevant.

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, then edge of centre locations, and only if there are no suitable sites shall out of centre locations be considered. The scope and content of any Sequential Test shall be agreed with the council and shall be reflective of the scale, role and function of the proposal. Proposals which fail to pass the sequential test will not be supported.

The applicant has submitted a sequential test in support of the application. Whilst the application has not clearly defined the catchment, the applicant has provided an audit trail of alternative sites in a range of locations within Thornhill Lees, Dewsbury, Savile Town and Ravensthorpe.

The latest occupancy data shows that the following premises are vacant and could accommodate the proposed development:

Dewsbury Town Centre (TCB2)

- Unit 5 Bradford Road o 21 Westgate
- 40 Princess of Wales Arcade
- 16-17 Broadway House
- 16 The Arcade
- 4 Union Street

Ravensthorpe District Centre (DCB13)

- 640 Huddersfield Road

Based on the locations of in-centre sites in the list provided by the applicant, occupancy data for the above centres has been considered and in the cases of Ravensthorpe District Centre and Dewsbury Town Centre, vacant premises

which could accommodate the proposed use have been identified. However, as the sequential test submitted has not considered the additional sites, a full and proper assessment cannot be undertaken to determine the impact. Therefore, in the absence of this information, it is considered that the proposed town centre use in this edge of centre location would have a detrimental effect on the vitality of the nearby centres and would fail to accord with Policy LP13.

Food and Drink Uses and The Evening Economy

Policy LP16 of the Kirklees Local Plan states *“In order to assess the potential harm of food and drink and licensed entertainment proposals on a centre, the following criteria will be considered with a planning application:*

- a. the number, distribution and proximity of other food and drink uses, including those with unimplemented planning permission in a particular centre;*
- a. the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas;*
- b. the potential for anti-social behaviour to arise from the development, having regard to the effectiveness of available measures to manage potential harm through the use of planning conditions and / or obligations;*
- c. the availability of public transport, parking and servicing;*
- e. highway safety;*
- f. the provision of refuse storage and collection; and*
- g. the appearance of any associated extensions, flues and installations.”*

Proposals for food and drink uses and licensed entertainment uses located outside of defined centres will be subject to criteria b to g set out under Policy LP16. The site is located outside of a defined town centre in the Kirklees Local Plan within a residential street, in an area with identified poor health needs. Sub paragraphs b – g of Policy LP16 have been considered in more detail within the officer report. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

1. Impact on Visual Amenity

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of the townscape, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration

concerning design which states: *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

The submitted plans confirm that no external alterations are proposed as part of the application. On this basis, it is considered that the proposed change of use would not have any significant visual impact on the character and appearance of the surrounding area.

Having taken the above into account, the proposed development would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

2. Impact on Residential Amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be outlined, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The proposed works would not include any exterior alterations to the building and therefore the proposal would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the existing arrangements on site.

Paragraph 191 of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location considering the likely effects of pollution on living conditions. In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

This is also reiterated within Policy LP16 (b) which requires an assessment on the “the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas”.

The proposed change of use has the potential to cause noise, odour and pollution which could detrimentally affect the amenity of the surrounding

residential properties. Therefore, KC Environmental Health have been formally consulted on the proposed scheme. Officers have confirmed that no noise assessment and no information has been provided in relation to the type or quantity of food on offer at the proposed development. Therefore, in the absence of information relating to noise and odours, it is considered that, the development would fail to accord with the aims of Policies LP16 (b), LP24 and LP52 of the Kirklees Local Plan, HFT4 of the Council's Hot Food Takeaway Supplementary Planning Document and Chapter 15 of the NPPF.

3. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

This application seeks approval to change the use of the building from a clothes shop to a cafe with hot food takeout. As such, KC Highways Development Management have been formally consulted as part of the application.

KC Highways DM visited this site on 19th and 20th March at around 13:20 and 12:15 and found that there was on-street parking available either on Wharf Street to the front of the proposed café or opposite along Cross Street. KC Highway Safety have also been consulted and have confirmed that there has been no recorded injury accident collisions anywhere near the site. Whilst on-street parking at this location is a concern, given the small scale of the proposal, that the applicants are happy to limit the delivery and shop opening hours (Monday to Friday 07.00 to 14.00) and that there was on-street parking available at the time of the site visits, KC Highways would find it difficult to justify a refusal of these proposals on Highway safety grounds. Therefore, on balance, Officers have no objection to the proposed works.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

4. Other Matters

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 predates 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.

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures.

Public Health

Policy LP47 of the Kirklees Local Plan states the council will create an environment which supports healthy, active and safe communities and reduces inequality. Policy LP47(j) goes on to state that healthy, active and safe lifestyles will be enabled by working with partners to manage the location of hot food take-aways particularly in areas of poor health.

Kirklees have adopted a Hot Food Take Away SPD which forms a significant material consideration. Policy HFT1 states that proposals for all new hot food takeaways will be assessed against the Kirklees Council Public Health Toolkit and that proposals which are not accepted by the toolkit will be refused unless other material considerations indicate otherwise.

KC Public Health have developed a tool which uses a range of local data (indicators) to assess which areas have multiple risk factors. These indicators include:

- Index of Multiple Deprivation (IMD) quintile
- % of adults overweight
- % of adults obese
- % of 5-year-olds with excess weight
- % of 11-year-olds with excess weight
- Diabetes prevalence rate
- Coronary heart disease prevalence rate

KC Public Health have produced a scoring category based on these indicators of deprivation. A hot food takeaway will be refused permission if it is located within a postcode that has a combined points total above 20 (21 or above) across the seven indicators of deprivation, obesity and related health conditions out of a possible 42. In this instance, the application has a

combined score of 26. Based on this evidence, there are a number of health indicators which are worse than the Kirklees average. As such, it is considered that the proposal would be incompatible with the surrounding residential uses of the street and would result in adverse impacts on public health. Therefore, given the indicators for this site, the proposal would fail to meet Policy LP47 of the Kirklees Local Plan, HFT1 of the Hot Food Take Away SPD and Chapter 8 of the NPPF.

Contaminated Land

The proposed development appears to concern internal refurbishment only therefore, KC Environmental Health consider there to be a low risk from contaminated land to site users of the proposed development. However, during the construction phases unexpected contamination may be encountered, therefore, contaminated land conditions are necessary.

Construction Noise

Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors, therefore, it is considered necessary for a footnote to be imposed restricting the times when noisy construction activities will be permitted.

Pollution Prevention (for food outlets including take-aways/restaurants)

Waste fat, oils and grease from food premises have the potential to cause blockages in drainage systems. No information has been given relating to how grease, fats and oils are to be controlled at the proposed site. Before the application can be determined, details of a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas must be provided. KC Environmental Health require this information prior to determination to ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, and environmental well-being and to accord with LP44 of the Kirklees Local Plan.

Odours

Preparation and cooking odours have the potential to cause loss of amenity to sensitive receptors. The proposal concerns the establishment of a hot food business which will share party structures with residential accommodation. KC Environmental Health note that the neighbouring residential property has a window opening within the roof structure, which may complicate the positioning and required height of any future flue terminus. No information has been provided in relation to the type or quantity of food on offer at the proposed development. Officers require this information prior to determination to ensure that the impact of odour does not give rise to loss of amenity and to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees

Local Plan, the aims of HFT4 the Council's Hot Food Takeaway Supplementary Planning Document and Chapters 12 and 15 of the National Planning Policy Framework.

Noise

The proposal concerns the establishment of a hot food business which will share party structures with residential accommodation. No information has been provided in relation to noise that may be generated by the proposed development. Therefore, before the application can be determined, details of a noise assessment by a suitably competent person must be submitted in writing to the Local Planning Authority. KC Environmental Health require this information to ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan, the aims of HFT4 the Council's Hot Food Takeaway Supplementary Planning Document and Chapters 12 and 15 of the National Planning Policy Framework.

Noise and Opening Hours

The Sequential Test states that the opening hours will be restricted to 07:00–14:00 during the working week. However, it then goes on to inform that it will 'be predominantly open during the day'. KC Environmental Health have confirmed that the use of the word 'predominantly' is too vague and the business will either be open during the times listed or not. Officers also have concerns that the menu provided with the Hot Food Takeaway SPD clearly describes the weekend food offer, which contradicts earlier statements regarding working week which is normally interpreted as Monday to Friday. The Sequential Test also states that the floor between the shop and above has been upgraded for noise insulation, however, no details or associated noise insulation values for the 'upgrade' have been mentioned. With this in mind, Officers do not accept the new information and as such, the need for a pre-determination noise report remains in place.

Waste Storage/ Collection and Littering

It is unclear from the submitted plans and information, how waste storage or facilities for the disposal of customer's litter can be accommodated within the application site. This would need to be adequately screened in a manner and location that does not detract from the street scene or the character of the area; or that does not cause odour nuisance to neighbouring occupiers. Therefore, in the absence of this information, it is considered that the proposal could be harmful to visual and residential amenity contrary to Policies LP16, LP21, LP24 and LP52 of the Kirklees Local Plan and the aims of HFT5 the Council's Hot Food Takeaway Supplementary Planning Document.

Late Night activity/littering and Crime

In relation to general disturbance, littering and anti-social behaviour/crime impacts of the proposal, LP16b) and c) of the Kirklees Local Plan and HFT 5 and 6 of the Hot Food Takeaway SPD are relevant in assessing the proposed development to be considered.

In relation to comings and goings, the application site is sited on a residential street which is not in a local centre. The opening hours of 07:00am to 14:00pm are unlikely to encourage night time activity and anti-social behaviour. As such, the proposal would be acceptable in this regard.

There are no other matters considered relevant to the determination of this application.

5. Representations

Five representations were received following the statutory publicity. The comments made have been summarised and addressed below:

- We already have a lack of parking spaces that are available during the day. The customers of the adjacent businesses typically park in residential spots and cause a massive inconvenience to me, my family and no doubt other residents. I fear this will become more severe with the opening of this business as there isn't any parking spaces available for the workers, let alone customers.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- This business will add to the already problematic congestion/traffic this street currently experiences, as all internal town traffic flows through this street. To add another business in an already over congested street is irrational as it will worsen the traffic.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- A poorly managed or incompatible business can have a negative effect on property values in the area, which could detrimentally affect homeowners in the vicinity.

Response: *This matter would not constitute a material planning consideration.*

- We have elderly people living in our house and one big concern is while going to the mosque or for medical we can't park our car outside our home due to customers from tyre place, barber shop and take away parking outside our house.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- This is very busy street and we only have parking space opposite our home. During day we can't park our car in street due to tyre place and take away opposite also barber shop customers park near our home.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- We have seen few big rats in our street during day.

Response: *This matter would not constitute a material planning consideration.*

- The addition of a food business on Wharf Street is likely to increase traffic congestion in an already busy area. This may pose safety risks for pedestrians and other road users.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The shop front is bulky, unattractive, and not in keeping with the row of stone fronted terraced properties of which it forms a part of.

Response: *No external alterations are proposed as part of this planning application. Therefore, any external alterations to the property would require a separate planning permission from the Council and would need to be submitted as a new planning application.*

- Wharf Street and the surrounding roads are relatively narrow with limited off-street parking availability. As such, given the nature of the area, the roads are already heavily congested with residential and industrial traffic and on-street parking.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- It is considered that the proposed development would further increase the volume of traffic using Wharf Street.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The application site does not include any customer parking, and as a result, customers visiting the premises would be required to park on Wharf Street where space is already limited and demand for on-street parking from residents and existing business users is already high.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- Our clients are also concerned that the proposed development would increase the amount of litter along Wharf Street and the surrounding area.
Response: *This matter has been addressed within the 'Other Matters' section of the report.*

- Whilst it is recognised that the previous clothes shop also contained the black box like fascia, it is felt that this application offers the opportunity to remove this and replace it with something much simpler in design and more in keeping with the character and appearance of the host property.
Response: *No external alterations are proposed as part of this planning application. Therefore, any external alterations to the property would require a separate planning permission from the Council and would need to be submitted as a new planning application.*

- Although the premises is not proposed to operate during unsociable hours, car engines left running outside of the premises and car doors opening and shutting on a regular basis would, in our view, cause undue harm to the residential amenity of neighbouring residents.
Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The increase in traffic and on-street parking would further reduce visibility for road users and restrict the free flow of traffic along Wharf Street. The application site is also located close to a bend in the road which further increases highway safety concerns.
Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The increase in traffic associated with the proposed development would also lead to increased noise levels and disturbance for local residents.
Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' and 'Other Matters' sections of the report.*

- With regards to the 'limited hours of operation,' it is also questionable as to whether these will be limited to 0700 to 1400 hours Monday to Friday. The applicant's menu refers to a 'weekend special,' and the applicant's Sequential Test document also states that the business will be 'predominantly open during the day and not on an evening.'
Response: *This matter has been addressed within the 'Other Matters' section of the report*

- The proposed signage appears to have been just 'stuck on' without much consideration given to scale, design or detailing. No details have been provided within the application concerning the signage either, including materials.

Response: *No external alterations are proposed as part of this planning application. Any advertisements would require a separate planning permission from the Council and would need to be submitted as a new planning application.*

- As already noted by KC Policy and KC Environmental Health (Pollution & Noise Control), several reports and plans are also missing from the application. Therefore, it is considered that the proposed development should be refused on the grounds of insufficient information.

Response: *These matters have been addressed within the 'Residential Amenity' and 'Other Matters' sections of the report.*

- It also seems odd that the applicant doesn't expect any delivery vehicles to visit the premises. Even if this is the case, the applicant themselves would still need to park on Wharf Street to unload their stock and supplies from their own vehicle if transporting them from their home.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The location of hot food takeaways outside of defined centres not only has the potential to cause harm to the vitality and viability of centres, but also has a negative impact on the character and amenity of residential areas in particular, such as this area of Wharf Street.

Response: *The matter has been addressed within the 'Principle of Development' section of the report.*

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- Operating a food business often involves significant noise levels, particularly during peak hours. This could disrupt the peaceful ambiance of our residential neighbourhood.

Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- I'm concerned about the increase in littering, which is already a concern having seen cans, chips and sauces littered over the road and footpath over the last 3 months. This new business I fear will add to the littering and exacerbate an ongoing rat issue.

Response: *This matter has been addressed within the 'Other Matters' section of the report.*

- The increase in litter would also have a negative impact on the visual amenity of the area as well as potentially increasing odours and vermin.
Response: *This matter has been addressed within the 'Other Matters' section of the report*

- The application form states that the change of use started in August 2023. As such, the application is considered to be retrospective, or at least part retrospective, and this should therefore be made clear within the description of the proposal.
Response: *Any works that have commenced prior to the application being determined may be subject to enforcement action.*

- I'm concerned about noise the business will add, odours of food from the business and overflowing bins which is not uncommon in food places.
Response: *These matters have been addressed within the 'Other Matters' section of the report.*

- The opening hours on form state only Mon-Fri however, sticker on the door of the business include Saturday and Sunday
Response: *Should the application be approved, a condition would be added to restrict the hours of use.*

- The fact that there are now two hot food takeaways on this residential street within 30 metres of one another is also considered to be inappropriate with regard to visual amenity, as well the potential impacts on the health of the local community.
Response: *No external alterations are proposed as part of the application. However, impacts on health have been addressed within the 'Other Matters' section of the report.*

- We also have concerns regarding hygiene issue. One take away opposite tyre place, customer put rubbish outside take away and we find quite few rubbish in our street.
Response: *This matter has been addressed within the 'Other Matters' section of the report*

- Locating bins at the front of the property would be completely inappropriate in our view as they would detrimentally affect visual amenity and the character of the street scene and would also likely cause some obstruction to the public footpath.
Response: *This matter has been addressed within the 'Other Matters' section of the report.*

- The bins are highly likely to cause an odour nuisance to neighbouring dwellings whether they are located at the front or rear.
Response: *This matter has been addressed within the 'Other Matters' section of the report*

- Any bin storage at the front of the premises would also have a detrimental impact on visual amenity, and any increase to on-street parking as a result of the development would further degrade the overall character of the area.
Response: *This matter has been addressed within the 'Other Matters' section of the report*

- Also, regarding opening hours it says on application that Monday to Friday but on sign on door says 7 days a week. According to the sign on the door, they are planning to open from 6th October without planning approval.
Response: *This matter has been addressed within the 'Other Matters' section of the report. Any works that have commenced prior to the application being determined may be subject to enforcement action.*

- Some of the food dishes that are shown on the menu cannot be cooked on a normal domestic hob and would require a fully functioning commercial style kitchen. With this in mind, it is highly unlikely that a domestic style extraction system would be adequate for the proposed development.
Response: *This matter has been addressed within the 'Other Matters' section of the report*

- Contrary to what the applicant states, the property is a mid-terrace property and is therefore joined to, and not separate from other residential dwellings
Response: *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- Our clients are therefore concerned that the bin may end up being permanently located at the front of the property, which would be of detriment to visual amenity and the character of the area.
Response: *This matter has been addressed within the 'Other Matters' section of the report.*

- Food businesses must adhere to strict hygiene standards to ensure the safety of the community. It is imperative that the council thoroughly assesses the applicant's plans for waste disposal and food safety measures.
Response: *These matters have been addressed within the 'Other Matters' section of the report.*

- The application form states that two bins are being provided by the local authority and collected via business waste. Other than this, the application, including the submitted plans, contains no details regarding waste. This is of great concern to our clients.

Response: *This matter has been addressed within the 'Other Matters' section of the report.*

- The application site is small, and the red line boundary on the Location Plan only includes the building and a very small area of land at the front of the building. If the bin store cannot be located within the building, (which seems likely given the size of the premises), where exactly are the bins going to be stored?

Response: *This matter has been addressed within the 'Other Matters' section of the report.*

- It is important that any new business conforms to existing zoning and planning regulations. I urge the council to carefully consider whether this proposed establishment aligns with the current zoning laws for Wharf Street

Response: *The application has been addressed against planning policy within the report.*

- On bin collection day, it is unclear how the bin would be collected from the side of the property as it's a mid-terrace! To bring the bin round to the front of the property would be less than straight forward too.

Response: *This matter has been addressed within the 'Other Matters' section of the report.*

6. 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 as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. Therefore, the application is recommended for refusal.

Recommendation: **Refuse**

Decision Authorisation - Delegated Powers

Application Number: 2024/92635

Officer Recommendation: Refuse

Reasons for Refusal

1. The provision of a hot-food takeaway in the proposed location would have a detrimental impact in an area of Kirklees with an identified poor health need. The application has a combined score of 26 which would significantly exceed the recognised acceptable limits set out in the Council's Public Health Toolkit. As such, the proposal would fail to accord with the aims of PolicyLP47 (j) of the Kirklees Local Plan, HFT1 of the Hot Food Take Away SPD and Chapter 8 of the National Planning Policy Framework.

2. The applicant has failed to demonstrate, through submission of adequate noise and odour impact assessments that the living conditions of neighbouring occupants would not be significantly detrimentally affected by the proposal. Without such information, neighbouring properties could be subjected to poor standard of amenity. As a result, the Local Planning Authority is unable to undertake a full and proper assessment of the development against Policies LP16(b), LP24 and LP52 of the Kirklees Local Plan, HFT4 of the Council's Hot Food Takeaway Supplementary Planning Document and Chapter 12 and 15 of the National Planning Policy Framework.

3. The applicant has failed to demonstrate that waste storage or facilities for the disposal of customer's litter can be accommodated within the application such that this can be adequately screened in a manner and location that does not detract from the street scene or the character of the area; or that does not cause odour nuisance to neighbouring occupiers. Therefore, the proposal would be harmful to visual and residential amenity contrary to Policies LP16, LP21, LP24 and LP52 of the Kirklees Local Plan and the aims of HFT5 the Council's Hot Food Takeaway Supplementary Planning Document.

4. In accordance with LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework, Local Planning Authorities must apply a sequential approach to Main Town Centre uses that are not located within an existing centre. It is concluded that the application has failed to demonstrate that the proposal would not harm the viability and vitality of nearby Town Centres. Therefore, the proposal would be contrary to Policies LP2 and LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework.

5. The applicant has failed to demonstrate how grease, fats and oils are to be controlled at the proposed site. Given the failure to submit details of a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas, the proposal is contrary to Policy LP44 of the Kirklees Local Plan.

Plans and specifications schedule:

Plan Type	Reference	Revision	Date Received
Location Plan	2422-D-20-001	-	05/09/2023
Site Plan	2422-D-20-002	-	05/09/2023
Hot Food Takeaways SPD - Statement	-	-	26/01//2024
Sequential Test	-	-	26/01//2024
Flood Risk Assessment	-	-	14/11/2023

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 Planning Authority have, 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. No amendments to the scheme were sought on this occasion as the principle of development could not be supported.

Dated: 07/08/2024