

**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:	2024/62/92258/W
Site Address:	1000-1004, Manchester Road, Linthwaite, Huddersfield, HD7 5QQ
Description:	Change of use from vacant restaurant/takeaway (sui generis) to hot food takeaway (sui generis) with installation of extract and ventilation equipment and external alterations to front and rear elevations (within a Conservation Area)
Recommending Officer:	Katie Chew

DECISION – FULL CONDITIONAL 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.

Emma Thompson

AUTHORISED OFFICER

Date: 21-Oct-24

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Officer Report

Site Description

1000-1004, Manchester Road, Linthwaite, HD7 5QQ

The application site relates to a large commercial mid-terraced natural sandstone property with a mixture of grey concrete tiles and blue slated pitched roof. Accommodation is spread across 3 floors comprising of restaurant/hot food takeaway (now vacant) on the ground floor, residential use on the first floor and ex-warehouse space in the basement. The basement and first floor accommodation are accessible from the rear via Coldwell Street, the ground floor is accessed from Manchester Road.

The site is located within Linthwaite Conservation Area but is not in close proximity to any Listed Buildings.

Description of Proposal:

The application seeks planning permission for the change of use from vacant restaurant/takeaway (sui generis) to hot food takeaway (sui generis) with installation of extract and ventilation equipment and external alterations to front and rear elevations (within a Conservation Area).

The proposed opening hours are:

Monday – Friday: 11:00am – 23:00pm
Sunday/Bank Holidays: 11:00am – 23:00pm.

External alterations include retention of the existing timber fascia panel to the front elevation of the building which is to be finished in RAL 7043 Traffic Grey, repainting of existing render to the front in RAL 7043 Traffic Grey, replacement of existing shopfront glazing with new cladding panel finished in RAL 7043 Traffic Grey incorporating vent to service the new incoming gas cupboard and a new opening to the rear of the ground floor to provide an exit door and a new external staircase made from black steel, to provide ground level access. Extract equipment is also proposed to be installed on the rear elevation of the building.

Internal alterations are also proposed to enable the unit to operate sufficiently in line with the business proposed.

History of negotiations/amendments received

Additional information was requested from the applicant's agent in respect of previous advertisement undertaken to promote the alternative use of the vacant unit and some minor amendments to the plans in line with comments received from the Council's Conservation & Design Officer.

Relevant Planning History

2023/92649 – Change of use of basement floor to 3 studio flats and erection of first floor extension to form 1 studio apartment (within a Conservation Area). Refused 26th October 2023. This application was refused as:

‘1. The proposed development, by reason of the severely limited amount of useable internal floorspace and restricted floor to ceiling head heights for proposed flat 4, coupled with the restricted natural light and outlook achieved by Flats 1, 2 & 3 at basement level would provide a poor standard of amenity to future occupiers of these residential dwellings. Therefore, the development would be contrary to the aims of the National Planning Policy Framework paragraph 130(f), Principle 16 of the Housebuilders Design Guide SPD and Policies LP15d and LP24(b) of the Kirklees Local Plan.

2. It has not been demonstrated that the amenity of future occupiers could be protected from noise and odour pollution emanating from the A62 Manchester Road and the proximity of commercial food and drink uses to the application site. Without such information future occupiers could be subjected to a poor living conditions and quality of life. On the basis of the submitted application the proposals are therefore contrary to Policies LP15d and LP24b of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and the aims of the National Planning Policy Framework paragraphs 130(f) and 185’.

2022/90728 – Change of use of basement floor to 3 studio flats and erection of first floor extension to form 1 residential apartment (within a Conservation Area). Refused 17th November 2022. This application was refused as:

‘1. The proposed development, by reason of the severely limited amount of useable internal floorspace and restricted floor to ceiling head heights for proposed flat 4, coupled with the restricted natural light and outlook achieved by Flats 1, 2 & 3 at basement level would provide a poor standard of amenity to future occupiers of these residential dwellings. Therefore, the development would be contrary to the aims of the National Planning Policy Framework paragraph 130(f), Principle 16 of the Housebuilders Design Guide SPD and Policies LP15d and LP24(b) of the Kirklees Local Plan.

2. It has not been demonstrated that the amenity of future occupiers could be protected from noise and odour pollution emanating from the A62 Manchester Road and the proximity of commercial food and drink uses to the application site. Without such information future occupiers could be subjected to a poor living conditions and quality of life. On the basis of the submitted application the proposals are therefore contrary to Policies LP15d and LP24b of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and the aims of the National Planning Policy Framework paragraphs 130(f) and 185’.

2018/91060 – Discharge of conditions 3, 4 and 9 on previous permission 2017/94154 for change of use from vacant shop unit to restaurant/takeaway and ice cream parlour (within a Conservation Area). Refused 14th December 2021.

2017/94154 – Change of use from vacant shop unit to restaurant/takeaway and ice cream parlour (within a Conservation Area). Approved 6th February 2018.

88/01913 – Change of use of disused first floor to 2 flats. Approved 10th June 1988.

Representations

Final publicity date expires:

Neighbour Letters – Expired 27th September 2024.

Site Notice – Expired 3rd October 2024.

Press Notice – Expired 27th September 2024.

2 objections have been received; comments are summarised below.

- Linthwaite already has 2 pizza takeaways on the same row of shops. The proposals will likely result in the 2 long standing businesses closing down due to competition.

Officer note: Noted.

- Linthwaite needs more facilities not low value takeaways and vape shops.

Officer note: Noted.

- A previous application, Number: 2022/62/91308/W was rejected due to "The proposed hot food take-away in Linthwaite Local Centre would lead to a substantial concentration and cumulative impact of over 15% of food and drink units on the Local Centre reducing its mix of uses and raising viability and vitality issues for the Local Centre to offer a diversified mix of uses. There is no evidence of a meaningful marketing exercise to promote the alternative use of the vacant unit. The proposal would be harmful to the vitality and viability of Linthwaite Local Centre and contrary to Policies LP16(a) and LP13 of the Kirklees Local Plan."

Officer note: Noted. The principle of a hot food take-away in this location is discussed in more detail within the principle of development section of this report.

- Whilst the current building is an eyesore and the managing agents should be asked to keep the premises maintained whilst vacant, the community and other businesses do not want a chain fast food brand that adds to Linthwaite not being developed like Slaithwaite and Marsden.

Officer note: Noted.

Officer note: The application has been advertised by site notice and press notice in line with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. This is due to the site being located within the Linthwaite Conservation Area. Whilst it is acknowledged that amended plans have been received during the course of this planning application, these alterations related to painting the ductwork to the rear of the building black and retaining the existing fascia frontage of the building. Given the minor details it was not considered reasonable or necessary to undertake re-consultation with third parties on this occasion.

Consultation Responses

KC Highways Development Management – Comments received 20th September 2024. No objections.

KC Waste Strategy – Comments received 26th September 2024. The Council's Waste Strategy Officer has provided the below information for the applicant:

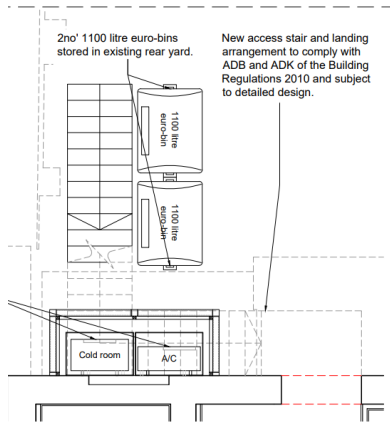
Under Section 45 (1) (b) of the Environmental Protection Act 1990 It shall be the duty of each Waste Collection Authority (WCA), if requested by the occupier of premises in its area, to collect any commercial waste from the premises.

The applicant may choose to use the trade waste service from Kirklees Council or a private contractor for collection and treatment of wastes arising on the site. Regardless of the contractor used, providing appropriate waste storage is vital to prevent escape of waste, odour, or vermin problems. Evidence of a waste collection contract and Controlled Waste Transfer Notes (CWTN's) must be available if requested.

Any producer of controlled waste must ensure compliance with Section 34 Duty of Care etc. as respects waste.

The applicant should follow the guidance as detailed in Section 4.5 HFT5 Waste Disposal (Page 20) of the Kirklees Hot Food Takeaway SPD dated September 2022.

The applicant has submitted Proposed GA Plan dated 06/08/2024 shows the location of the bin store containing 2x1100ltrs wheelie bins at the rear service yard.



The Planning, Design and Access Statement Pegasus Ref: P24-0568 Date: August 2024 includes details of proposed waste storage on the premises.

6.21. Policy HFT5 – Waste Disposal

6.22. *A Waste Management Strategy has been prepared and is included within this Statement. Compliance with this Strategy can be secured through an appropriately worded condition to be agreed with the applicant.*

6.23. *The policy requires that bin stores should be in an appropriate location where they will be easily accessed and will not detract from the street scene. The provision of a refuse store at the rear of the building will ensure that it can be easily brought to the kerb for collection at the appropriate times, whilst keeping it in a discrete location where it is only visible from the rear in the context of the established commercial back of house area.*

6.24. *Sufficient space is provided for refuse and recyclable waste and collections will be timed to avoid peak times and ensure that waste is not kept on site for an excessive amount of time where it could lead to unacceptable odours or attract vermin. The exact schedule of collections is to be determined by the applicant in due course. There is no conflict with this policy*

The details of waste storage and litter arrangements are further outlined in the submitted Waste Management Plan.

All waste will be bagged and taken to the rear of the site where there will be two 1100l commercial bins. An extract from the Block Plan shows the location of the bin store. One bin will be used for general waste, and one for mixed recyclables. Bins will be taken to the kerb for collection, and it is expected that they will be collected twice a week.

Commercial Waste storage and presentation:

The volume of waste generated at the site will be dependent on the level of trade, packaging of supplies. It is assumed that waste storage has been based on waste arisings/ experience at other Domino's premises.

- Separate wheeliebins will be required for residual waste, recycling (dry recyclables including cardboard and packaging) and potentially

separate food waste/Cat 3 animal by-products in compliance with forthcoming Simpler Recycling legislation.

- The bins should be contained within a purpose designed storage area. Details of bin store construction requirements including screening can be found in the Kirklees Waste Management Design Guide 2020. The bin store should be secure to prevent theft, unauthorised use/ fly tipping, arson or rough sleeping.
- Bin store surfaces should be durable and waterproof enough to withstand heavy duty cleaning such as power washing. The storage area needs to have suitable drainage. .
- The bin storage area and access routes to the Bin Collection Point (BCP) should be constructed to withstand point loading and movement, impacts of larger bins over time, and to resist future rutting, pitting, cracking, or other such surface degradation that would impair bin manoeuvring. The route should avoid kerbs.

Refuse Collection Vehicle access:

Suitable site access and manoeuvrability space for a Refuse Collection Vehicle (RCV) is vital to the Council's ability to discharge its obligation to collect waste from properties.

- Trade waste collections currently take place from adjacent premises on Coldwell Street.

KC Public Health – Comments received 27th August 2024. KC Public Health note that there are a number of health indicators which are worse than the Kirklees average. Careful consideration should be given to this application due to the potential adverse health impacts of an additional hot food takeaway in this location. If this application is granted, public health recommends the business is referred to the FINE Team (contact details below) in order to facilitate support to provide a range of healthy options for customers.

Kirklees Food Initiatives and Nutrition Education (FINE) Project

Phone: 01484 221000 (ask for FINE Project)

Email: fine.project@kirklees.gov.uk

KC Environmental Health – Comments received 10th September 2024. No objections subject to conditions and informatives relating to implementation of agreed noise mitigation measures, implementation of agreed kitchen extract scheme, and that the applicant should contact the Council's food safety team prior to development commencing.

KC Conservation & Design (Informal) – Comments received 26th September 2024. No objections in principle however, Officers did request that

the fascia board remain as timber and that the duct to the rear of the building is painted black.

Parish/Town Council

N/A.

Local Ward Members

None.

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 application site is located within the Strategic Green Infrastructure Network, Linthwaite Local Centre, Linthwaite Conservation Area and a Bat Alert Area.

Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP7 – Efficient and Effective Use of Land and Buildings**
- **LP13 – Town Centres**
- **LP16 – Food and Drink Uses and the Evening Economy**
- **LP20 – Sustainable Travel**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP25 – Advertisements and Shop Fronts**
- **LP30 – Biodiversity and Geodiversity**
- **LP31 – Strategic Green Infrastructure Network**
- **LP35 – Historic Environment**
- **LP47 – Healthy, Active and Safe Lifestyles**
- **LP52 – Protection and Improvement of Environmental Quality**

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 December 2023, 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 4 - Decision-making
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of Climate Change, Coastal Change and Flooding
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Kirklees Waste Management Design Guide for New Developments (2020)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)
- Kirklees Hot Food Takeaway SPD (2022)

Summary of Principal Planning Issues

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Scale, design and visual impact of the proposed development
- 3) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 4) Impact on highway safety
- 5) Other matters
- 6) Conclusion

1 – Principle of Development

1.1 – Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The development is considered to make efficient use of an existing building in a sustainable location which would accord with the aims of Policy LP7, and those of paragraph 85 of the NPPF, in supporting economic growth and productivity.

1.2 – Town Centre Uses

In this case, Policy LP13 of the Kirklees Local Plan is relevant, this is due to the proposals seeking a change of use from vacant restaurant/takeaway (sui generis) to hot food takeaway (sui generis) with installation of extract and ventilation equipment and external alterations.

Policy LP13 of the Kirklees Local Plan relates to town centre uses and sets out that within Kirklees, main town centre uses shall be located within defined centres. These consist of principal town centres, town centres, district centres and local centres. This Policy outlines that proposals that have a significant adverse impact on the vitality and viability of a centre or compromise the role and function of a centre will not be supported. This Policy goes on to note that main town centre uses which are appropriate in scale, help to retain an existing centre's market share, and enhance the experience of those visiting the centre and the businesses which operate in that centre will be supported. The requirements of Policy LP13 are that Local Centres should be for the provision of top-up shopping and local services particularly food and drink.

Local Plan Policy LP16 refers to Food and Drink uses and the evening economy. This policy states that proposals for food and drink, licensed entertainment uses and associated proposals will be supported, provided they are located within a defined centre, and subject to ensuring the concentration of food and drink and licensed entertainment uses are not located in a particular centre or part of a centre, where they would result in harm to the character, function, vitality and viability of the centre, either individually or cumulatively.

It is noted that policy HFT2 of the Council's Hot Food Takeaway SPD sets out that applications that increase the concentration of hot food takeaways to ground floor units in a local centre to more than 15% of all main town centres are harmful to the vitality and viability of the local centre.

It is also important to note that KC Public Health were consulted and noted that there are a number of health indicators which are worse than the Kirklees average and therefore careful consideration should be given to this application due to the potential adverse health impacts of an additional hot food takeaway in this location.

Whilst the above is noted, as the proposals would maintain a commercial use/hot food takeaway at the site, and it is deemed to be of a scale that is appropriate for a Local Centre. The proposals are not considered to add to the overall number of restaurants/takeaways in the area, yet simply replace bring back into use a currently vacant building which was previously operating as a restaurant/takeaway, the proposals would therefore ensure the continued use of the building in the foreseeable.

Nevertheless, Officers contacted the applicant's agent to request some further information in to whether or not the unit was advertised to promote an alternative use of the vacant unit. They confirmed via email on the 18th September 2024 that there has been limited marketing of the site in 2022 but that they have not been able to get any evidence of this. However, the site has been vacant since April 2022, and as set out in the submitted Planning Statement, the site is an existing restaurant/takeaway and, as such, the proposals would not be introducing a completely new takeaway use, albeit it is appreciated that the takeaway aspect of the operation would be intensified. They do not believe that marketing evidence is required in this instance, as there would be no significant change in the operations at the unit. The site could also be occupied by a similar operator under the existing permission if a small amount of seating were proposed, and this should be the fallback position that the proposals should be assessed against. The type of food, number of trips and activity at the site would be almost identical, except that a number of customers could, if they wished, consume their purchases at the site.

In addition, the applicant's agent notes that the proposed use will enhance the vitality and viability of the centre through the reoccupation of a long-term vacant unit which currently forms part of an extensive break in the active frontage of the centre. The takeaway will operate during the day and into the evening, ensuring that there will be an active frontage in the day as well as at night. This will further help to attract footfall to this part of the centre, and will also provide employment opportunities, all to the benefit of the wider area.

Taking the above into consideration, the proposals are not considered to be harmful to the character, function or vitality/viability of the Local Centre and is considered to comply with Local Plan Policies LP13 and LP16, and Chapter 7 of the National Planning Policy Framework.

2 – Impact on Visual Amenity and Heritage Assets

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Section 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

LP35 states that: *‘Development proposals affecting a designated heritage asset...should preserve or enhance the significance of this asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm’.*

Paragraph 205 of the NPPF states: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation...”* This is further supported by paragraph 207 of the NPPF which outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, this weight should be weighed against the public benefits of the proposal.

In addition, 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”.

Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

As outlined above, Policy LP16(g) states that in order to assess the potential harm of food and drink proposals on a centre, consideration will be given to the appearance of any associated extensions, flues and installations.

Regarding visual amenity and the impact on the Conservation Area, the majority of the works are to consist of internal alterations and as such would have minimal, if any impact on the significance of the Conservation Area. However, external alterations are also proposed in the form of the retention of the existing timber fascia panel to the front elevation of the building which is to be finished in RAL 7043 Traffic Grey, repainting of existing render to the front in RAL 7043 Traffic Grey, replacement of existing shopfront glazing with new cladding panel finished in RAL 7043 Traffic Grey incorporating vent to service the new incoming gas cupboard and a new opening to the rear of the ground floor to provide an exit door and a new external staircase made from black

steel, to provide ground level access. Extract equipment is also proposed to be installed on the rear elevation of the building.

Given the nature of the proposals the Council's Conservation & Design Officer was informally consulted. They raised no objections to the scheme subject to the fascia board remaining as timber and that the duct to the rear of the building is painted black. Following receipt of these comments the applicant's agent has sought to include these details on plan and therefore the proposals are considered to have negligible harm to the character and appearance of the Linthwaite Conservation Area, and it is considered that bringing a vacant and run down building back into use would enhance the visual appearance of the area of which the existing building current detracts from.

For the reasons outlined above, the proposed alterations are considered to not harm the visual amenity of the area, or indeed the setting and significance of the Linthwaite Conservation Area. The proposals are therefore considered to accord with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

3 – Impact on Residential Amenity

Section B and C of LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

Further to this, paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.

Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that 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.

The application site amongst several residential dwellings to the north, north-east and south-west. Due to the nature of the proposals which simply seek a change of use, with some minor cosmetic changes to the front of the property, and installation of a new access door and external stairway to the rear. Officers have no concerns in respect of the proposals appearing overbearing or causing additional shadowing or overlooking on this occasion.

In respect of potential impacts from noise and odour, the Council's Environmental Health (ENVH) team were consulted on the proposals. They note that a plant Noise Assessment authored by Suono, dated July 2024 (ref: 294B.RP) has been received in support of the application. A noise survey has been undertaken to determine the existing noise levels at the nearest noise-sensitive receptors and plant noise limits have been set. The document confirms that additional mitigation is required to meet the noise limit. These are the installation of in-duct attenuators, and an enclosure formed of non-acoustic weather louvres. Based on this information, ENVH Officers understand that mitigation is proposed, and accept the report subject to the inclusion of a condition which requires the development to be carried out in accordance with the above assessment.

Further to this, a Proposed Ventilation System odour assessment authored by Aew, dated July 2024 (ref: 13990-AEW-PJ005986-XX-SP-0002) has been received in support of the application. The odour assessment has confirmed the proposed extract system will be sited at 1m above eaves height and the extraction system is to be fitted with fine filtration and carbon filters in accordance with Purified Air report (ref: EH30824_Huddersfield, Linthwaite) in accordance with latest EMAQ and Defra guidance. Based on this information, ENVH Officers understand that mitigation is proposed, and accept the report subject to the inclusion of a condition which requires the development to be carried out in accordance with the above odour assessment. The above is considered to be sufficient to mitigate any concerns in respect of noise and odour.

In conclusion, it is considered that, subject to the recommended conditions, the change of use and alterations proposed would not result in significant and detrimental impacts on the privacy and amenity of any neighbouring occupants, or noise and odour pollution, complying with Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4 – Impact on Highway Safety

Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact to 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.

The application seeks planning permission for the change of use from vacant restaurant/takeaway (sui generis) to hot food takeaway (sui generis) with installation of extract and ventilation equipment and external alterations to front and rear elevations (within a Conservation Area). Given the nature of the proposals, the Council's Highways team were consulted, they note that the site currently benefits for permission for use as restaurant and takeaway, given the proposal for a takeaway only, this would be considered a reduction in intensification from highways perspective, this together with the provision of

unrestricted on street parking would be considered acceptable. It is also noted that refuse storage and collection is to be provided to the rear of the premises and that overall, the proposal is considered acceptable from a highway's perspective with no associated highways conditions considered necessary.

Taking the above into consideration, it is therefore considered that the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

5 – Other Matters

Biodiversity

Paragraphs 185, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Whilst it is acknowledged that the application site is located within a bat alert area, given the tight relationship between the host building and no. 998A Manchester Road and that the roof appears to be well-sealed, and the area is well illuminated it is considered unlikely that bats would be roosting in this location. Nevertheless, should planning permission be granted an informative is recommended highlighting to the applicant what to do should roosting bats be found during construction works.

Within the submitted application form the applicant states that the proposals would be exempt from Biodiversity Net Gain (BNG) conditions as the proposal relates to a site which comprises of entirely hardstanding/built development therefore no habitats would be affected.

Taking the above into consideration, Officers consider the proposals to fall under the de minimis threshold which applies to development that does not impact a priority habitat and impacts less than 25sqm of non-priority onsite habitat or 5m for non-priority onsite linear habitats. As the site wholly consists of hardstanding and the proposals are for the change of use of an existing building, it is not considered that there will be any loss of habitat at the site, the proposals are considered to be exempt on this occasion and therefore the proposals do not need to provide details in respect of a biodiversity metric.

Climate Change

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.

Whilst the application is not supported by a Climate Change Statement, it is noted that the proposals are for the change of use of an existing building, and would be constructed to the latest building control standards, which would include efficient heating and thermal elements inside the building, it is therefore not considered reasonable to expect any additional information to be submitted in respect of meeting the Council's Climate Change Agenda.

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 and other material considerations. It is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve.

Decision Authorisation: Delegated Decision

Application Number: 2024/92258

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.

1. 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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP7, LP13, LP16, LP20, LP21, LP22,

LP24, LP25, LP30, LP31, LP35, LP47 and LP52 of the Kirklees Local Plan, and Chapters 2, 4, 7, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

2. The combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment shall be 5dB below the lowest measured background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.

Reason: 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 and Chapters 12 and 15 of the National Planning Policy Framework.

3. The development shall not be brought into use until all of the measures specified in the approved Plant Noise Assessment authored by Suono, dated July 2024 (ref: 294B.RP) have been carried out in full and such measures shall be thereafter retained.

Reason: 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 and Chapters 12 and 15 of the National Planning Policy Framework.

4. Before any food cooking commences the kitchen extract system as specified in the Proposed Ventilation System odour assessment authored by Aew, dated July 2024 (ref: 13990-AEW-PJ005986-XX-SP-0002) shall be installed. The kitchen extract system shall operate at all times during the preparation and cooking of food and be maintained in accordance with the manufacturer's instructions and as specified in the report.

Reason: To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 22100 (ask for food safety) or by email at food.safety@kirklees.gov.uk.

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 to intentionally 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. If Bats are found then contact Natural England.

Plans and Specifications Schedule:

Plan Type	Reference	Web ID	Date Received
Location Plan	13990-AEW-PJ005986-XX-DR-0005	-	12 th August 2024
Block Plan	13990-AEW-PJ005986-XX-DR-0006	B	17 th October 2024
Existing Elevations	13990-AEW-PJ005986-XX-DR-0002	-	12 th August 2024
Existing GA Plan	13990-AEW-PJ005986-00-DR-0001	-	12 th August 2024
Proposed Elevations	13990-AEW-PJ005986-XX-DR-0004	B	17 th October 2024
Proposed GA Plan	13990-AEW-PJ005986-00-DR-0003	B	17 th October 2024
Waste Management Plan – Supporting Information	-	-	12 th August 2024
Plant Noise Assessment – Supporting Information	294B.RP.1.0	0	12 th August 2024
Planning, Design and Access Statement (including Heritage Assessment) – Supporting Information	P24-0568	R001v1	12 th August 2024
Proposed Ventilation System – Supporting	13990-AEW-PJ005986-XX-SP-0001	-	12 th August 2024

Information			
Community Infrastructure Levy (CIL) - Form 1: CIL Additional Information – Supporting Information	-	-	12 th August 2024
Proposed Ventilation System – Supporting Information	13990-AEW-PJ005986-XX-SP-0002	-	12 th August 2024

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 have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Additional information was requested from the applicant's agent in respect of previous advertisement undertaken to promote the alternative use of the vacant unit and some slight amendments to the plans in line with comments received from the Council's Conservation & Design Officer.

Report Dated:

17th October 2024.