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:	**2025/62/90582/E**
Site Address:	Khan Food Store, 636, Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3HL
Description:	Change of use from shop to cafe/takeaway with external canopy and installation of replacement of shop front with new shutter
Recommending Officer:	Nina Sayers

DECISION - REFUSED

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.

Emma Thompson

AUTHORISED OFFICER

Date: 30-Oct-25

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Officer Report

Site Description

Khan Food Store, 636, Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3HL.

The application site relates to the ground floor unit of 636 Huddersfield Road in Ravensthorpe which currently serves a retail unit. The property sits within a terrace of commercial properties in Ravensthorpe District Centre. There is a glazed, single storey element which protrudes out the front elevation, which it appears, from aerial imagery, has been installed since at least 2002.

The site is within the Strategic Green Infrastructure Network and Ravensthorpe District Centre as identified upon the Kirklees Local Plan. The site falls within Flood Zone 2.

Description of Proposal

The applicant is seeking permission for the change of use from shop to cafe/takeaway with external canopy and installation of replacement of shop front with new shutter.

The scheme proposes a sandwich bar/food prep area to the rear of the shop and a shop area to the front, with a serving area adjoining to two. A cooking area is proposed in the back corner. The applicant has confirmed that the proposal would serve a hot food takeaway.

The scheme would re-build the existing single storey element to the front of the property with sandstone walls to the sides and large window to the front.

A 300dia. extractor is proposed to the front, above the shop frontage.

History of negotiations/amendments received

No amendments sought or provided.

Relevant Planning History

No relevant planning history.

Representations

We are currently undertaking statutory publicity requirements, as set out at Tables 1 and 2 in the Kirklees Development Management Charter (December 2024). As such, we have publicised this application by site notice and online which had a final expiry date of 10th March 2025.

No representations have been received.

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 Public Health – comments regarding public heath toolkit
- Designing Out Crime – No objections.

The responses of Consultees are addressed in the Assessment section of this report.

Policy

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 within the Strategic Green Infrastructure Network and Ravensthorpe District Centre as identified upon the Kirklees Local Plan. The site falls within Flood Zone 2.

Kirklees Local Plan (LP):

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 7 – Efficient and effective use of land and buildings
- LP 13 – Town centre uses
- LP 14 – Shopping frontages
- LP 16 – Food and drink uses and the evening economy
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 25 – Advertisements and shopfronts
- LP 28 – Drainage
- LP 30 – Biodiversity & Geodiversity
- LP 31 – Strategic Green Infrastructure Network

Supplementary Planning Guidance and other considerations

- Nationally Described Space Standards
- Hot Food Takeaway SPD (2022)
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Kirklees Climate Change Guidance for Planning Applications (2021)

- Institute of Air Quality Management Land-Use Planning & Development Control; Planning for Air Quality (2017)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2 – Achieving sustainable development
- Chapter 3 – Plan-making
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 6 – Building a strong, competitive economy
- 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, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Legislation

- Planning (Listed Building & Conservation Areas) Act (1990)

Assessment

The following matters are considered in the assessment below –

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

<u>1 – Principle of development</u>:

Sustainable Development
Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that "*good design should be at the core of all proposals in the district".*

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.

Strategic Green Infrastructure Network

The application site is recorded as being located within the Strategic Green Infrastructure Network (SGIN) on the Kirklees Local Plan. LP31 of the Kirklees Local plan states that proposals should ensure that the function and connectivity of green infrastructure networks and assets are retained, replaced or provided where appropriate, incorporating or providing new walking, cycling and ecological links. This application is for the change of use of an existing retail unit so would not impact on the SGIN.

Hot Food Takeaway

The proposal is for a café/takeaway to the ground floor and is within a Ravensthorpe District Centre. The agent has confirmed there will be hot food prepared and served for takeaway. It is therefore relevant to assess this application against LP16 of the Kirklees Local Plan and the Council's Hot Food Takeaway SPD.

KC Public Health were formally consulted on the proposal.

The council has a responsibility to enable and support residents to live in and access to healthy environments and 'healthy places' is one of the 3 priorities of the Kirklees
Health and Wellbeing Strategy.

In order to reflect the complexities of the obesogenic environment, public health has
developed a tool which will support the decision-making process for new applications. The tool makes use of a range of local data in order to assess which areas have multiple risk factors for obesity. The application was reviewed in relation to its potential impacts and against the relevant factors scored at 34, with a score of 20 or more being considered significantly high.

LP16 states that proposals for food and drink uses and associated proposals will be supported, provided they are located in 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.

In order to assess the potential harm of food and drink proposals on a centre, planning applications will be considered against criteria a to g in Policy LP16 which states that in order to assess the potential harm of food and drink 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;

b) the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas;

c) 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;

d) 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.

The criteria for LP16 aligns with the requirements of the policies in the Hot Food Takeaway SPD, as discussed in detail below.

Also of relevance is the advice in Chapter 8 of the NPPF, stating that planning decisions should ensure that crime and disorder, or the fear of crime, do not undermine quality of life or community cohesion. Paragraph 97(b) of the NPPF states that local planning authorities should refuse applications for hot food takeaways “in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour.”

Policy LP47(j) of the Kirklees Local Plan also states 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. Supporting this Policy, the Hot Food Takeaway SPD (HFT SPD) is a key consideration in managing the impacts of health when food and drink proposals are considered.

Hot Food Takeaway Supplementary Planning Document (HFT SPD)

HFT1 – Public Health Toolkit

This principle states that proposals for all new hot food takeaways will be assessed against the Kirklees Council Public Health Toolkit. Proposals that

are not accepted by the toolkit will be refused, unless other material considerations indicate otherwise. The proposed change of use would score 34 on the Toolkit and therefore fails the Toolkit assessment.

HFT2 – Town Centre Vitality and Viability

This principle states that hot food takeaways (Sui Generis) will not be supported in a principal town, town, district or local centre where the cumulative impact of introducing the facility would be detrimental to the vitality and viability of that centre. Proposals in Local Centres such as Ravensthorpe will be considered to be harmful if it meets one or more of three criteria.

Criteria 1 states that hot food takeaways will be considered to be harmful where they increase the concentration of hot food takeaway ground floor units in a centre to more than 15% of all main town centre uses. In the case of this application, the occupancy data for Ravensthorpe shows that there are 60 units in Ravensthorpe District Centre of which 9 are in use as hot food takeaways (15% of units). If the proposed use was permitted, 10 units would be hot food takeaways (17% of units) Criterion 1 of Policy HFT2 has therefore not been met.

Criterion 2 states that hot food takeaway proposals will be harmful where they create a cluster of three or more hot food takeaways together. In the case of this application, the occupancy data and the site survey shows that to both the east and west of the site are a retail unit and a takeaway unit. Therefore, it is considered that the proposal will not result in a cluster of three or more hot food takeaways together.

Regarding criterion 3, there are no clusters of hot food takeaways adjacent to the application site. Regardless of this, the scheme still fails to comply with Criteria 1, thus not meeting the requirements of HFT2 or LP16(a) of the Kirklees Local Plan.

HF2 takes vacancy levels into consideration. "*Hot food takeaways will be supported in centres that have reached the threshold in this guidance where it can be demonstrated that there is no demand for an alternative use and there is a vacancy level of […] 25% or more in local centres and they meet planning policy in all other respects*." With there being only 4 units vacant (6% of units) in Ravensthorpe District Centre, the proposed change of use would not meet this threshold. Therefore, the proposal does not comply with Policy HFT2.

HFT3 – Proximity to Schools

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

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

With this site being located within 400m walking distance of both Ravensthorpe CE Junior School (primary school) and Diamond Wood Community Academy (secondary school), it would be necessary for a planning condition requiring that the takeaway is not open to the public before 5pm on weekdays and there are no over the counter sales before that time. Officers concur with this assessment and any grant of permission would be recommended on the basis of the inclusion of such an hours of use restriction.

HFT4 – Noise abatement and extraction of odours

The applicant has not submitted any information pursuant to this being assessed however this can be secured by condition to control this matter should this application be recommended for approval (Discussed further in Residential Amenity section of this report).

HFT5 – Waste Disposal

The applicant has not submitted any information pursuant to this being assessed however this can be secured by condition to control this matter should this application be recommended for approval. This is considered to be acceptable.

HFT6 – Takeaway design and community safety

The shopfront is assessed with the Visual Amenity and Residential Amenity sections of the report. Advertisement Consent would be required for any signage and is not considered within this application.

With reference to the following *"The advice of West Yorkshire Police and the Community Safety Partnership in relation to personal safety or crime and disorder will be given significant weight in determining such planning applications."*

KC's Designing Out Crime Officer (DOCO) were consulted on the proposal and their response stated "West Yorkshire Police have no objection in principle to this application. We request the inclusion of a planning condition for security measures in the interests of crime prevention and community safety." The recommended conditions relate to doorsets and windows, security glazing, glazed curtain walling and window walls, roller shutters and grilles, CCTV, intruder alarms and storage of cash on the premises. Officers have considered this and would recommend a more general condition for security measures however it is advised the applicant reviews DOCO's comments before discharging any condition.

HFT7 – Highway safety

Assessed within the Highway Safety section of the report.

Points b-g of Policy LP16 and other relevant matters will be discussed further within the following report.

Principle of development – conclusion

It is therefore considered that the introduction of an additional hot food takeaway within Ravensthorpe District Centre, and area which already has above average levels of obesity, diabetes and cardiovascular disease, would result in significant harm to the health of residents of the local area. The application scores significantly higher than the threshold outlined in the Council's Public Health toolkit, failing to comply with HFT1 of the Hot Food Takeaway SPD, LP47(j) of the Kirklees Local Plan and paragraph 97(b) of the National Planning Policy Framework.

Additionally, the cumulative impact of introducing an additional hot food takeaway in this location would result in a high concentration (17%) of hot food takeaways which would be detriment of the vitality and viability of Ravensthorpe District Centre. The scheme therefore fails to comply with HFT2 of the Hot Food Takeaway SPD and LP16 of the Kirklees Local Plan.

The principle of development is therefore considered unacceptable. Notwithstanding this, the proposal will now be assessed against all other material planning considerations.

2 –Impact on visual amenity:

In terms of visual amenity, general design considerations are set out in Policy LP2, LP24 and LP25 of the Local Plan and Chapter 12 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area.
Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
The proposed external changes to the shop front would replace an existing timber framed shop front with a stone structure. The submitted plans show the proposed materials would match the existing stone building and therefore the proposed changes are considered an improvement to the existing.
No details of the fascia have been submitted. Any advertisement would require separate consent via a separate application and therefore is not being assessed under this application.

There is a proposed flue to the front of the property. A flue located on the principal elevation is unacceptable as it would appear incongruous and would result in harm to visual amenity. Whilst officers may be able to support a flue to the rear elevation, subject to impact on residential amenity, it is noted that in this instance the application boundary cuts through the middle of the building and therefore this is not possible in this instance. As the principle of development is considered unacceptable and as there does not appear to be an appropriate alternative location, no amended plans have been sought in this instance.
As such, whilst the works to the frontage may result in some improvement the erection of a flue would result in harm to visual amenity contrary to HFT6 of the Hot Food Takeaway SPD, LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan 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(f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

The proposed external changes to the front of the building would be the same footprint as the existing and therefore would not cause any additional harm over and above the existing arrangements on site.

The use of the first-floor unit above the application site is unclear. Similarly, it is not clear what the northern part of the building would be used for as this has been excluded from the red line boundary. As the principle of development is unacceptable, no additional information has been sought regarding the use of the first floor or adjacent building. Should this application be approved, this information would need to be sought, and if these units are residential in use, details of noise and odour assessment and mitigation, and requirements for insulation between the floors, as well as limited opening hours, would need to be secured by condition to ensure no harm is caused to the amenity of the first-floor or adjacent users.

Policies HFT4 and HFT5 of the adopted Hot Food Takeaway SPD set out that proposals for new hot food takeaways must demonstrate effective kitchen odour control and extract systems and appropriate noise attenuation measures and that appropriate waste disposal measures are undertaken.

It is considered, subject to conditions, the proposed application would not cause significant harm to the amenity for the neighbouring residents over and above the existing use as a shop. The scheme therefore complies with LP24

of the Kirklees Local Plan, HFT 4 and 5 of the Hot Build Takeaway SPD and Chater 12 of the NPPF.

4 – Impact on highway safety (including Highway Structures)

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Principles 12 and 19 of the Housebuilders design guides which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

The application site serves a retail unit and has no existing parking arrangements. Therefore, the proposed use as a takeaway is considered to not result in any additional harm to highway safety over and above the existing arrangements.

Waste

As previously discussed, details of waste bins have not been provided however this can be secured by condition should the approval be recommended.

The proposal therefore complies with LP21, LP22 and LP16(d) of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Biodiversity
Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12 February 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

The applicant has outlined in their application form that they believe their application falls under the de minimis exemption. Given the proposal is for the change of use of an existing unit, utilising the same floor area as existing, officers have no reason to disagree with this statement.
Flood risk
The application site is located within Flood Zone 2 as defined by the Environment Agency. Given the proposal is for a change of use and would not increase the vulnerability of the user, the proposal is considered acceptable in terms of flood risk and consultation with the LLFA was not considered necessary in this instance.
6 – Representations:

No representations had been received.

7 – Conclusion:

This application has been assessed against relevant policies in the development plan 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 consideration.

As discussed, the application would result in significant harm to the health of the local residents and the vitality and viability of Ravensthorpe District Centre. The scheme therefore fails to comply with HFT1 and HFT2 of the Hot Food Takeaway SPD and LP16 and LP47 of the Kirklees Local Plan as well as Chapter 8 of the NPPF.

Recommendation - Refuse

Decision Authorisation - Delegated

Application Number – 2025/90582

Officer Recommendation - Refuse

Reasons

1. The proposed development would result in an additional hot food takeaway within Ravensthorpe District Centre, an area which already has above average levels of obesity, diabetes and cardiovascular disease. At the detriment of the health of the local residents who would be negatively impacted by the availability of another Hot Food Takeaway. The application scores significantly higher than the threshold outlined in the Council's Public Health toolkit. The scheme therefore fails to comply with HFT1 of the Hot Food Takeaway SPD, LP47(j) of the Kirklees Local Plan and paragraph 97(b) of the National Planning Policy Framework.

2. The cumulative impact of introducing an additional hot food takeaway in this location would result in a high concentration (17%) of hot food takeaways which would be detriment of the vitality and viability of Ravensthorpe District Centre. The scheme therefore fails to comply with HFT2 of the Hot Food Takeaway SPD and LP16 of the Kirklees Local Plan.

3. A flue located on the principal elevation of the property would be an incongruous addition to the building and would fail to integrate sympathetically into the wider street scene. The proposed development would therefore result in significant harm to the visual amenity of the host building and wider street scene contrary to HFT6 of the Hot Food Takeaway SPD, LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location and Floor Plans	Sheet 1		03/03/2025
Grouped Elevations	Sheet 2		03/03/2025

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 2024 and otherwise actively engaged with the applicant in dealing with the application. As the principle of development is considered unacceptable, and no amendments would have rendered the application acceptable, no amended plans were sought or provided in this instance.

Report Dated: 17/06/2024