
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 06-Jun-2019

**Subject: Planning Application 2018/90391 Erection of hot food take-away adj,
364, Meltham Road, Netherton, Huddersfield, HD4 7EH**

APPLICANT

Thandi Bros Ltd

DATE VALID

12-Feb-2018

TARGET DATE

09-Apr-2018

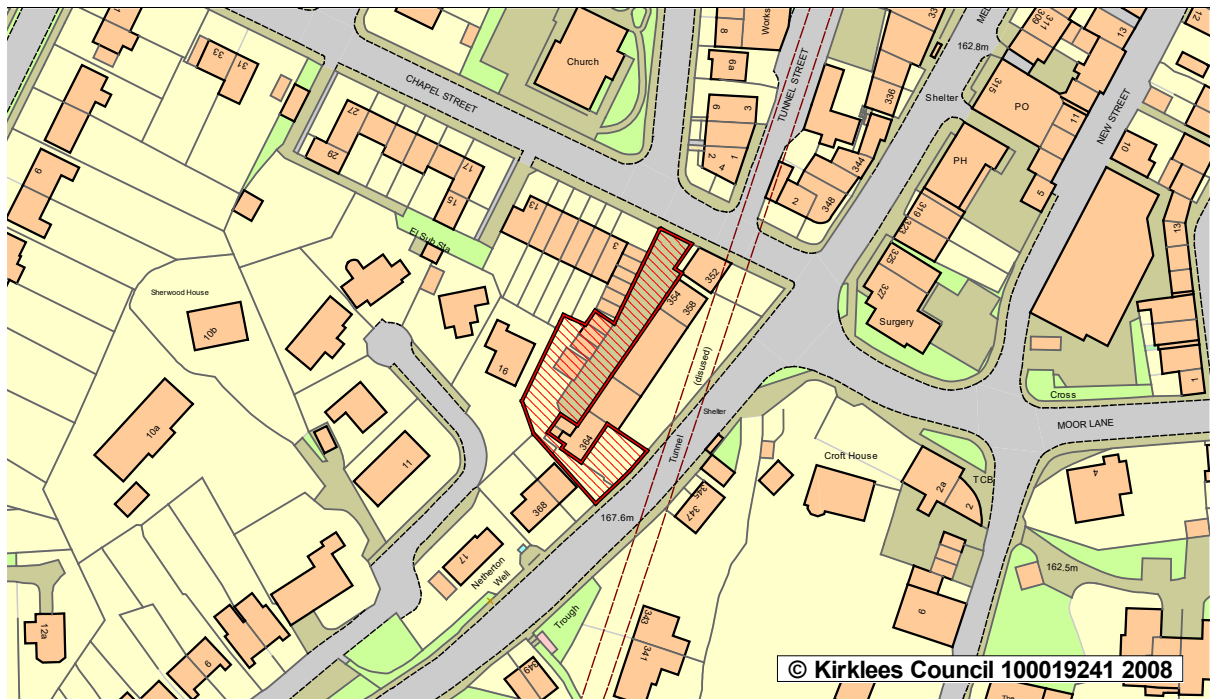
EXTENSION EXPIRY DATE

14-Jun-2019

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<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Crosland Moor and Netherton

No

Ward Members consulted

RECOMMENDATION: Refuse

1. The proposed building, by reason of its siting and scale, would form an unduly prominent and incongruous feature in the street scene which would be harmful to the character and appearance of the area. This is contrary to Policy LP24(a) of the Local Plan and Chapter 12 of the National Planning Policy Framework.
2. The development would give rise to a loss of residential amenity as a result of noise and disturbance at unsocial hours and odours arising from the proximity of the flue to residential property, contrary to the aims of Policies LP24 (b) and LP52 and Chapter 12 of the National Planning Policy Framework.
3. The submitted plans and information have not satisfactorily demonstrated that adequate off-road parking for staff, customers, and delivery drivers, can be provided within or in the vicinity of the site. Furthermore the proposed location of the bin store would conflict with a car parking space and make it difficult for cleansing operatives to access bins. This would result in an unacceptable impact on highway safety contrary to Policy LP21(a) of the Local Plan and para 109 of the NPPF.

1.0 INTRODUCTION:

- 1.1 The application is brought to the sub-committee for determination following a request from Ward Councillor Manisha Kaushik which states:

“If you are minded to refuse the above application, I would like you to take it to the Planning subcommittee so that issues of parking and visual impact can be considered by Members. I would like a site visit by members.”

- 1.2 The Chair of the Sub Committee has confirmed that Councillor Kaushik’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Sub Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises no. 364 Meltham Road, a hair salon with an apartment above at second floor which forms the end property in a row of modern commercial premises, and associated land, located on the north-western side of Netherton Road. There is space for parking and manoeuvring on the

forecourt of the property and next to this is an unused plot of land on the highway frontage, elevated above highway level by about 1.5-2.0m and overgrown with small trees, shrubs and weeds. To the rear of nos. 358-364, and at a higher level, is a private access track to serve the flats above the commercial units.

- 2.2 The nearest neighbouring property to the south-west is a 3-storey semi-detached dwelling. On the opposite side of the road, the frontage consists of low-density residential development.

3.0 PROPOSAL:

- 3.1 The proposal is for the erection of a building to be used as a hot food takeaway. This would be a single-storey building and would require the excavation of the existing banking so as to create a flat surface at existing highway level. It would be joined to the existing hair salon building at one corner.

- 3.2 The proposed building would be 7.7m long and would project 6.2m forward of the front elevation of no. 364, leaving a gap of approximately 3.0m before the highway boundary. Its width would be 5.0m at the front, tapering to 3.2m at the rear which is required by the constraints of the site. It is proposed that it would be built in coursed natural stone and would have a hipped blue slate roof.

- 3.3 The entrance door is to be at the side of the building facing the vehicle forecourt. Proposed hours of opening are to be from 12pm until 12am, 7 days a week.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 None

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 The additional or amended details have been submitted as a result of negotiation:

- 12-Mar-2018: Agent submitted further information and a planning statement in response to the case officer's request for further information about refuse collection and parking.
- 18-Jul-2018: Agent submitted amended plans deleting the bedsit (i.e. reducing the building to a single-storey) and reducing the projection of the proposed takeaway.

6.0 PLANNING POLICY:

- 6.1 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 Development Plan for Kirklees currently comprises the Local Plan.

6.2 The following Local Plan policies are considered to be relevant:

- 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 35: Historic environment
- LP 47: Healthy safe and active lifestyles
- LP 52: Protection and improvement of environmental quality

National Planning Policy Framework:

6.3

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- Chapter 7 – Ensuring vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by site notice and neighbour notification letter. The publicity period ended 26-Mar-2018.

7.2 Representations have been received from 16 local residents or business persons and in addition a 59-signature petition against the proposal has been submitted. The concerns raised can be summarised as follows:

- Parking issues and no space for deliveries
- Impact on intervisibility
- There are already frequent accidents involving vehicles using the car park
- No provision for waste storage
- Visual impact
- Flue emissions will be unpleasant and potentially dangerous for residents
- The building would interfere with escape routes for hair salon
- Impact on foundations to adjoin properties
- There are enough takeaways in Netherton already.

7.3 The additional/amended information and plans were not re-publicised as these reduced the scale of development. The objections raised above are taken into account in the assessment of the application.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** Network Rail – No objection subject to conditions.

8.2 **Non-statutory:**

KC Highways Development Management – Recommend refusal.

KC Environmental Health – Recommend refusal.

KC Planning Policy (Local Plans team) - No objections.

KC Corporate Strategy and Public Health – Advise against, but this will depend on retail mix and balance of centre.

Police Architectural Liaison Officer – No objection subject to condition.

9.0 **MAIN ISSUES**

- Principle of development
- Impact on vitality and viability of Local Centre
- Urban design issues
- Residential amenity
- Highway issues
- Public Health
- Representations
- Other matters

10.0 **APPRAISAL**

Principle of development

- 10.1 The site falls within Netherton Local Centre on the Local Plan proposals map. It is close to the boundary with Netherton & Corn Bank Conservation Area, which lies on the opposite side of Meltham Road.
- 10.2 It is roughly 15m from a grade II Listed structure, a well-head with retaining walls, HUD 47/1436.
- 10.3 Impact on the retail balance and function of Netherton Local Centre will be considered having regard to LP 13 and 16. Policy LP 13 states, in brief, that main town centre uses shall be located within defined centres, which should provide a mix of uses whilst retaining a strong retail core. Policy LP 16 of the Local Plan states that proposals of this nature should be supported, subject to ensuring that the concentration of food and drink and licensed entertainment uses should not be in any one part of a centre, where this would result in harm to the character, function, vitality and viability of the centre.
- 10.4 The proposal will also be assessed having regard to potential impacts on highway safety and parking (LP21-22), its design and appearance, including any impacts on heritage assets (LP24 and 35), implications for public health and health inequality (LP47) and the local environment and residential amenity (LP52). Similar considerations are set out in the NPPF policies listed above.

Impact on vitality and viability of Local Centre

- 10.5 The August 2018 occupancy survey of Netherton Local Centre found that 5 out of a total of 20 units were in “leisure service” use, which includes restaurant, hot food takeaway, drinking establishment and “A1 takeaway” (or sandwich bar) use. Should this application be approved, the number of leisure service uses would amount to 29% of the total number of units. There are no unimplemented planning permissions for hot food takeaways in Netherton Local Centre at the present time. It is therefore considered that the proposal would complement the existing uses and would not have a detrimental impact upon the retail mix and balance of the centre.

Urban Design issues

- 10.6 This part of Netherton does not display a strong coherence in architectural style, but it is notable that 352 to 364 Meltham Road are all set back substantially from the highway boundary across a shared forecourt. 336-368, also on the north-west side of the highway close to the site, are set back by some 5m. On the opposite side of the road is an optometrist’s and an attached dwelling with only a small yard at the front. The rest of the south-eastern road frontage gives the impression of being open and undeveloped with many small trees.
- 10.7 The building has been reduced in scale from what was shown on the original plans – a two-storey structure with a gable roof extending to the highway boundary. Even as amended, however, it still projects far beyond the line of the existing shops and 2.5m beyond the line of the adjacent dwelling houses, nos. 366-368. It is considered that in context, the erection of a new building projecting this far forward would look incongruous and out of keeping with the street scene. This is notwithstanding that it would be seen in the context of rising land to the south-west and north-west.
- 10.8 Officers’ assessment is that the development would not adversely affect the setting of the Netherton and Corn Bank Conservation Area, as it is clearly distinct from the character and appearance of the Conservation Area, nor would it be harmful to the setting of the Listed well-head referred to previously.
- 10.9 It would however be harmful to visual amenity and would therefore conflict with the aims of PLP24(a) and Chapter 12 of the NPPF.

Residential Amenity

- 10.10 Hot food takeaways are liable to give rise to noise disturbance from a number of factors – from the takeaway ventilation system, from cars or delivery vehicles pulling up and departing, engines revving and doors slamming, and from the behaviour of customers, who may arrive intoxicated at later times and will sometimes linger outside waiting to be served or eating their meals.
- 10.11 In a town or local centre, a certain amount of noise and activity in the evenings may be accepted beyond what would be considered normal in a residential area, but Netherton is a fairly quiet village which is not likely to have a high level of activity on the streets late at night. It is also important to note that the surrounding area is of mixed residential and commercial character. The site is at the very edge of the commercial centre of Netherton, just at the point where commercial uses give way to residential use. Furthermore the adjacent commercial premises have residential flats above.

- 10.12 Given the character of the surrounding area it is considered that the proposed takeaway, especially with the proposed closing time of midnight, would result in a significant and noticeable increase in late night noise and disturbance at this location which would be liable to result in a reduction in amenity for residential properties close to the site.
- 10.13 Emission of fumes from hot food takeaways can be prevent or at least mitigated by the installation of an appropriate ventilation system with filtration to remove grease and odours. Even with such mitigation measures implemented, however, fumes can still cause nuisance if the takeaway is very close to existing residential properties. In this instance it is considered that the extremely close relationship between the proposed takeaway and its two residential neighbours – 366 Meltham Road to the south-west and the flat above no. 364 to the north-east – would result in an irreconcilable conflict between these two uses, with a very high probability of loss of amenity resulting from fumes.
- 10.14 It is considered, in summary, that the development would not be able to operate without giving rise to a loss of residential amenity as a result of noise and odours, contrary to the aims of Policy LP52, and NPPF Chapter 15.

Highway issues

- 10.15 It is anticipated that the local highway network would be able to absorb the additional traffic generated by the development. Visibility splays at the south-west entrance to the car park are substandard and there is limited circulation and manoeuvring space within it, but the development would result in a small improvement in visibility (from 7m to 20m). It is therefore considered that the possible intensification of the access is not a significant enough concern to warrant a refusal.
- 10.16 No dedicated parking is provided to serve the proposed takeaway. It has not been clearly demonstrated where staff would park. Section 10 of the application form says that an additional two spaces would be created or provided at the rear but these have not been shown on a plan.
- 10.17 Customers and delivery drivers would, in principle, be able to take advantage of the large parking area in front of 354-364 Meltham Road. This area appears to be shared by the businesses occupying the frontage and contains approximately 15 spaces (4, 3 and 5 in front of the hair salon, dental practice and supermarket respectively although not all are marked out, and capacity for a further 3 in front of the pizza takeaway). Based on officers' observations it appears that the car park is heavily used during the daytime. It is possible that there would be more spaces available in the evenings, although no objective evidence has been provided of levels of parking demand at different hours of the day.
- 10.18 Takeaways and other businesses are often granted planning permission without dedicated parking, but this tends to be in cases where there is a parking lay-by adjacent to the premises, or where officers are satisfied that vehicles can park informally by the roadside without it giving rise to highway safety problems. In this instance it is noted that the site is located on a major road on which typical vehicle speeds are likely to be in the region of 30 mph, and so

any on-street parking would be highly undesirable from the point of view of highway safety. There is a traffic regulation order (double yellow lines) on the north-west side of the highway close to the junction with Chapel Street, but the road frontage outside the supermarket and dental practice is unregulated, as it is on the opposite side of the highway outside the optometrist.

- 10.19 Drawing AL02A shows the position of the integral refuse/recycling bin store. This is cause for concern as it is immediately adjacent to a car parking space which is likely to be used by the neighbouring hair salon. This may make the bins inaccessible to a cleansing operative on collection day and could also make it difficult for takeaway employees to wheel the bins to a suitable collection point. The space created by setting back the development could be suitable for a bin collection point which again has not been shown.
- 10.20 In conclusion, based on the information submitted it is considered that the takeaway would result in additional demand for car parking that it might not be possible to accommodate within the existing car park. Furthermore the proposed location of the bin store would conflict with a car parking space and make it difficult for cleansing operatives to access bins. This would not be in the interests of highway safety and contrary to Policies LP21 and LP22 of the Local Plan and para 109 of the NPPF.

Public Health

- 10.21 Planning Practice Guidance – health and wellbeing advises that planning can influence the built environment to improve health and reduce obesity and excess weight in local communities, taking into account proximity to locations where children and young people congregate, evidence of locally high levels of obesity, deprivation and poor health, and clustering of certain use classes within specific areas.
- 10.22 The general aim of creating and supporting healthy communities is also promoted by Chapters 2 and 8 of the NPPF.
- 10.23 Local Plan policy LP 47 Healthy, active and safe lifestyles criterion (j) refers to working with partners to manage the location of hot food takeaways particularly in areas of poor health.
- 10.24 The typical adult diet exceeds recommended dietary levels of sugar and fat. Living within close proximity to fast food takeaway outlets has been associated with rates of obesity and weight gain.
- 10.25 There are also inequalities on obesity rates between different socioeconomic groups: among children in reception and year 6, the prevalence of obesity in the 10% most deprived groups is approximately double that in the 10% least deprived.
- 10.26 Obesity is a complex problem that requires action from both individuals and society across multiple sectors. One important action is to modify the environment so that it does not provide easy access to energy-dense food in order to help make the healthy choice the easy choice via environmental restructuring.

10.27 Crosland Moor and Netherton, taking the Ward as a whole, is in the 40% most deprived areas in England according to the Index of Multiple Deprivation. The proportion of reception age and Year 6 children who are overweight or obese within the Ward (Crosland Moor and Netherton) is close to the Kirklees average, but is still considered high enough to be a cause for concern.

10.28 It is considered however that as the concentration of hot food takeaways in or near Netherton Local Centre is not particularly high, and as the site is not within 400m of a school, this particular concern would not be a sufficiently strong material consideration to be a reason for refusal in this instance.

Representations

10.29 A summary of the comments received is set out below with officer responses:

- Parking issues and no space for deliveries
Response: See 10.16-21 above.
- Impact on intervisibility
Response: See 10.16-21 above.
- There are already frequent accidents involving vehicles using the car park
Response: Access arrangements to the car park are not ideal and there is very limited circulation space within it. It is considered that these factors would not in themselves be a serious enough concern to justify a refusal, although there is a lack of clarity about how parking provision would be accommodated for the new development and on this basis officers are not minded to approve.
- No provision for waste storage
Response: Waste storage has been addressed on the current plans but waste collection has not.
- Visual impact
Response: Noted – this issue has been examined in 10.6-10.10 above.
- Flue emissions will be unpleasant and potentially dangerous for residents
Response: Noted – see 10.11-10.15 above.
- The building would interfere with escape routes for hair salon
Response: The natural escape route would be across the existing car park, which would remain.
- Impact on foundations to adjoining properties
Response: This would normally be treated as a private civil matter and would therefore not be a material planning consideration.
- There are enough takeaways in Netherton already.
Response: It is the view of planning officers that the proposed development would not lead to an over-concentration of takeaways. It should be noted that the planning system cannot be used as a means of restricting commercial competition.

Other Matters

- 10.30 *Crime and disorder.* Hot food takeaways may sometimes give rise to increased levels of crime or anti-social behaviour. This is more likely to be an issue where there is a high concentration of evening economy uses within a small area. It is considered that owing to the lack of evidence of significant problems of this nature in Netherton centre, this would certainly not amount to a reason for refusal. In the event of officers being minded to approve, the installation of a CCTV scheme, as recommended by the Police Architectural Liaison Officer, could be conditioned.
- 10.31 *Land stability.* The development site is within formal consultation distance of a rail tunnel. Network Rail have been consulted and do not object to the proposal in principle.

11.0 CONCLUSION

- 11.1 It is considered that the proposed development, owing to its siting, would be harmful to the street scene and visual amenity, and that owing to its position close to residential properties would be liable to result in a loss of residential amenity owing to noise and unsociable hours and odours. Furthermore it has not been demonstrated that parking demand generated by the development could be safely accommodated within or in the vicinity of the site, nor that refuse can be safely collected.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90391>

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