
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-2021

Subject: Planning Application 2020/94233 Change of use of car sales offices to hot food takeaway Store, 491, Bradford Road, Batley, WF17 8LQ

APPLICANT

M H Hanif

DATE VALID

10-Dec-2020

TARGET DATE

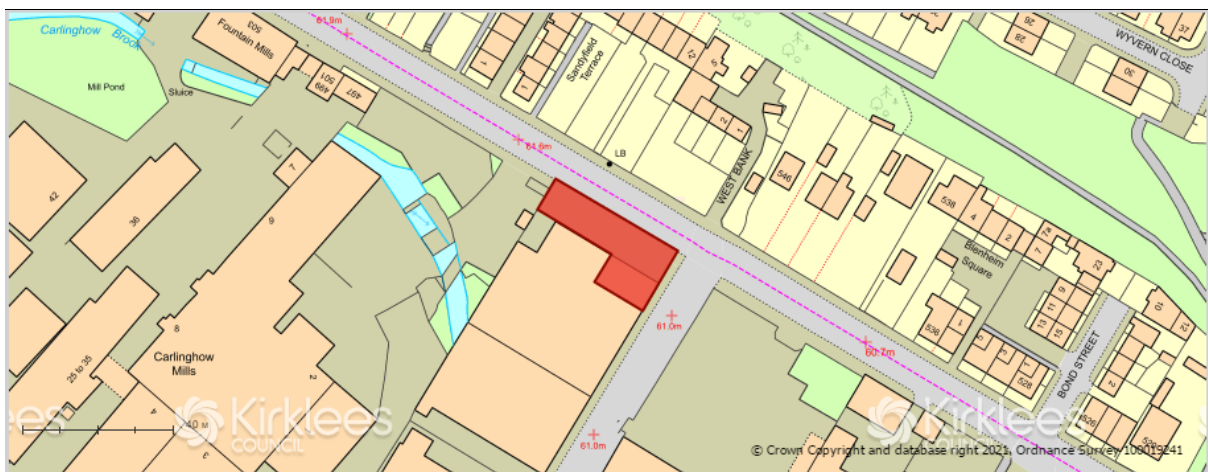
04-Feb-2021

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<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: Batley West

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and issue the decision.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Habiban Zaman. The reason for the committee request is set out as follows.
- 1.2 “I still feel the application needs to go to committee as:- (1) The residents are extremely unhappy and with the number of objections and telephone calls I have received, I feel it’s best that the committee decides and not an officer. (2)The takeaway will attract a large number of young people who will congregate in groups and in cars which will cause issues to the neighbouring residents. (3) The takeaway could also attract anti social behaviour which the residents are clearly opposing and want to life peacefully. (4) Parking in the vicinity is limited, customers would have to park on the main Bradford Road which is already congested and busy all day. (5) The residents are already complaining of users from the car show room blocking their access and feel this will increase with the number of users from the takeaway.”
- 1.3 The Chair of the Sub-Committee has confirmed that this arrangement is appropriate, having regard to the Councillor’s Protocol for Planning Committees and the Constitution.

2.0 SITE AND SURROUNDINGS

- 2.1 491 Bradford Road comprises a two-storey detached building and a car park. This building was last occupied by a car sales business known as BHP Enterprise but is vacant. The car park is enclosed by pole and chain fencing.
- 2.2 This section of Bradford Road is characterised by a mix of residential and commercial development. To the north-eastern aspect of the road are mostly residential development comprising two-storey stone-built terraced and detached houses. All buildings on the opposite side of the road are occupied by light industrial uses.

2.3 The Cross Bank Batley Conservation Area is located on the north-western aspect of the application site. The building on site and those immediately adjacent fall within Flood Zone 2 identified on the Flood Map for Planning.

3.0 PROPOSAL:

3.1 Planning permission is sought for the change of use of a car sales office to a hot food takeaway. The premises concerned is approximately 114 square metres. The hours of use would be 12:00 to 22:30 Mondays to Saturdays and 12:00 to 22:30 Sundays and Bank Holidays.

3.2 The hot food takeaway would employ 2 members of staff; one would be full time and the other one would be part time. There would be 11 off street parking spaces available to the front for the perspective customers and delivery drivers. The access arrangement would be the same as existing. No external alterations are proposed to the shopfront of the existing building.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

No record of any similar application found on site and its immediate surroundings.

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

5.1 No amendments were sought on this occasion, as the development is considered acceptable in its current form.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan but in the vicinity of the Cross Bank Batley Conservation Area.

6.2 Kirklees Local Plan (KLP):

LP 1 – Achieving sustainable development

LP 2 – Placing shaping

LP 13 – Town centre uses

LP 16 – Food and drink uses and the evening economy

LP 21 – Highway safety

LP 22 – Parking

LP 24 – Design

LP 27 – Flood risk

LP 30 – Biodiversity and geodiversity

LP 35 – Historic environment

LP 52 – Protection and improvement of environmental quality

6.3 National Planning Policy Framework

Chapter 2 – Achieving sustainable development

Chapter 7 – Ensuring the vitality of town centres

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

Chapter 16 – Conserving and enhancing the historic environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by neighbour letter, which expired on 26-Jan-2021. Following this publicity, nine written representations were received from members of public, who raised the issues below.

- Inadequate parking in the vicinity of the site.
- This development could cause disruption to the flow of traffic on Bradford Road.
- This development, if permitted, could exacerbate the problems with rats and littering.
- There is already a takeaway close to the application site.
- Impact of odour when food is being prepared on site.
- The use of this building as a takeaway is not keeping with the character of the area.

8.0 **CONSULTATION RESPONSE:**

KC Highways Development Management Team – We consider sufficient parking is provided and therefore believes the proposal is acceptable.

KC Environmental Health Service – No objection to this development, subject to the recommended conditions.

KC Public Health – No comments received.

KC Designing Out Crime Officer – There are no concerns around this application from WYPF.

9.0 **MAIN ISSUES**

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety and parking
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections of this report.
- 10.2 This application seeks to change the use of an existing vacant building from a car sales office to a hot food takeaway. The building is current vacant. Whilst the site in question is in an out of centre location, the use proposed does not fall to be considered a main town centre use defined in Annex 2 of the NPPF and, therefore, does not need to be supported by a sequential test. The proposal is acceptable in respect of its impact on town centre vitality, complying with policy LP13 and chapter 7 of the NPPF.
- 10.3 The proposed use would constitute a food and drink use. Hence, careful consideration must be given the relevant criteria set out in policy LP16 of the KLP. On this occasion, the Council's Environmental Health Services and Designing Out Crime Officer, respectively, advise that the impact of odour and the potential of antisocial behaviour are acceptable, subject to the recommended condition detailed in their consultation responses. In addition, the Highways Development Management Team consider the level of parking provision is adequate to mitigate the potential impact on the local highway network. On this basis, officers find that the development in question is in general conformity with policy LP16 of the KLP. The principle of development could be supported.

Impact on visual amenity and historic environment

- 10.4 The proposal is for the change of use from a car sales office to a hot food takeaway. There are no external alterations proposed to the existing building. As noted in the site description section, all buildings to the south-western aspect of Bradford Road are occupied by non-residential uses. Therefore, to permit the proposed change of use would not have an adverse impact on the local character and the street-scene of Bradford Road. The visual impact resulting from this development is modest and acceptable in terms of policy LP24 of the KLP and chapter 12 of the NPPF.
- 10.5 Although the application site is in the vicinity of the Cross Bank Batley Conservation Area, the development concerned is unlikely to affect the significance of the Area, for it involves no alterations to the shopfront of the existing building. Given that, it is not necessary to publicise this application as affecting the setting of the Conservation Area. Overall, officers are satisfied based on the submitted information that the proposal accord with policy LP35 of the KLP and chapter 16 of the NPPF. It is acceptable from a heritage conservation perspective.

Impact on residential amenity (including noise and disturbance)

- 10.6 This application is for the change of use from a car sales office to a hot food takeaway. No information has been provided regarding the type of food that is proposed to be cooked, nor any details regarding the kitchen extract ventilation system.
- 10.7 The main concerns are with the odours caused by the food preparation and cooking process and the impact this will have on the amenity of the neighbouring residents living on the opposite side of Bradford Road. Therefore, it will be necessary to require further details regarding the proposed kitchen extract ventilation system. This must be properly risk assessed based on the type and amount of food to be cooked so that the correct level of ventilation is installed that can effectively disperse and control odours.
- 10.8 As well as the above, the type of termination flue will need to be considered and its position in relation to the ridge height of the building and ideally this should be marked on a plan. Consideration should also be given to the noise attenuation measures required for the extract fan. To achieve this, a condition should be imposed to require the submission of a kitchen extract scheme before the building is first open to public as a hot food takeaway.
- 10.9 Subject to this condition, the potential impact of noise and odour resulting from this development could be acceptable in relation to policies LP16, LP24 and LP52 of the KLP and chapter 15 of the NPPF. The current scheme is appropriate from a residential amenity perspective.

Impact on highway safety

- 10.10 The proposed development will use the existing access and egress from Bradford Road and it is anticipated there will be an intensification of use for this access. A designated bin storage area will be provided adjacent to the car park. At the site frontage, there is an area available for 11 off-street parking spaces to accommodate staff members and customers.
- 10.11 The level of parking provision indicated on the submitted site plan is considered sufficient for a site of this scale, as the takeaway will not cause a significant increase to parking and traffic within the vicinity of the site. There is on-street parking available adjacent the site if it is ever needed by customers.
- 10.12 For these reasons, the development under consideration would not give rise to any significant highway safety and parking issues. It would be consistent with policies LP21 and LP22 of the KLP and chapter 9 of the NPPF. The current scheme is satisfactory in highway safety terms.

Other matters

Climate emergency

- 10.13 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 pre-dates 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.

- 10.14 The proposal is for the change of use of an existing vacant building to a hot food takeaway. As such, no specific measures were required in terms of the planning application with regards to carbon emissions.

Flood risk

- 10.15 The site is partly within Flood Zone 2 on the Flood Map for Planning. In accordance with policy LP27 and chapter 14 of the NPPF, a site-specific Flood Risk Assessment should be submitted in support of this application. In this instance, no information has been provided on this matter.
- 10.16 It is noted both the current and proposed uses fall within the same vulnerability classification identified in the NPPG. Besides, the development concerned is not considered to increase the likelihood of flooding on site and off site. Therefore, whilst no FRA has been provided in support of this application, it is unlikely to substantiate a reason for refusal in view of the site context, as discussed earlier.

Waste collection and disposal

- 10.17 This application relates to an existing building, which benefits from established waste collection and disposal arrangements. For a hot food takeaway, all food produced on site is expected to be consumed off site. As such, it is not anticipated to result in a significant increase in terms of the amount of waste generated. The potential of littering could be controlled by other measures, which fall outside the development management process. Overall, whilst appreciating the potential of issue raised in the representation, it does not, in this instance, substantiate a reason for refusal in respect of policy LP16 of the KLP.
- 10.18 There are no other matters considered relevant to the determination of this application.

Representations

- 10.19 This application was publicised by neighbour letter, which expired on 26-Jan-2021. Following this publicity, nine written representations were received from members of public, who raised the issues below.
- Inadequate parking in the vicinity of the site.
Response: This matter has already been considered in the highway safety section.
 - This development could cause disruption to the flow of traffic on Bradford Road.
Response: The increase of traffic resulting from this development is not considered to be significant enough to have an adverse impact on highway safety.

- This development, if permitted, could exacerbate the problems with rats and littering.
Response: This concern has been addressed in the other matters section.
- There is already a takeaway close to the application site.
Response: The nearest takeaway referred to in the written representation received is known as Frankies at 598 Bradford Road. This is approximately 385m from the site in question. Given the distance between the proposed and existing hot food takeaway, the development is considered not to result in an overconcentration of hot food takeaways in this locality.
- Impact of odour when food is being prepared on site
Response: A condition will be imposed to reduce the potential of impact of odour, in line with policies LP16 and LP52 of the KLP and chapter 15 of the NPPF.
- The use of this building as a takeaway is not keeping with the character of the area.
Response: The proposal is not considered to have an adverse impact on the local character, given the wide range of uses already exist in the area nearby.

11.0 CONCLUSION

- 11.1 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.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Conditions

1. Timeframe of 3 years for implementing the development.
2. In accordance with the submitted plans.
3. Kitchen extract scheme be submitted for approval prior to occupation

Background Papers:

Application web link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/94233>

Certificate of Ownership: Certificate A signed and dated 09-Dec-2020