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**Report of the Head of Planning and Development**

**STRATEGIC PLANNING COMMITTEE**

**Date: 16-Dec-2021**

**Subject: Planning Application 2021/91172 Change of use from former petrol filling station, car and van repairs/part sales and car sales pitch to hot food take-away (sui generis) Crown Motors, Waterloo Road, Waterloo, Huddersfield, HD5 0AH**

**APPLICANT**

Mr Brown, Cubic  
Expression UK Ltd

**DATE VALID**

22-Mar-2021

**TARGET DATE**

17-May-2021

**EXTENSION EXPIRY DATE**

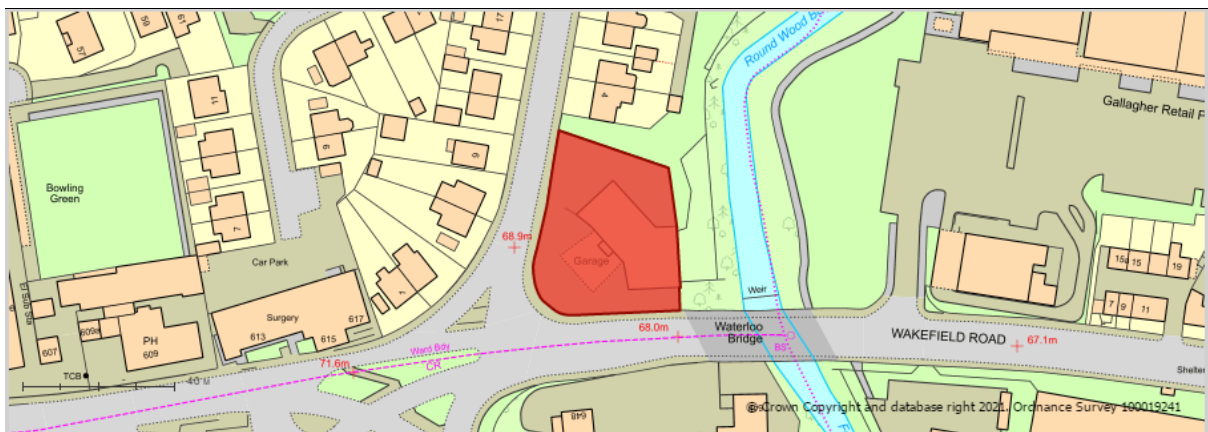
26-Oct-2021

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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**

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**Electoral wards affected: Dalton**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 This application is brought before Strategic Committee for determination under the terms of the Delegation Agreement because it is deemed to be a departure from the development plan. A small part of the site to the rear is designated as Urban Green Space within the Kirklees Local Plan and the proposal would not comply with Policy LP61(a) (Urban green space).
- 1.2 At an earlier stage in the process a request for a Sub-Committee decision was made by Ward Councillor Musarrat Khan, for reasons set out fully in section 7 of the report, relating to highway safety, impact on residential amenity, possible anti-social behaviour, and public health. This request was confirmed as valid by the Chair of Huddersfield Sub-Committee, but officers reached the view that as the proposal was a departure it would have to be determined at the Strategic Committee and not at an area Sub-Committee.
- 1.3 The application was presented to Strategic Committee on 21<sup>st</sup> October 2021. Members voted to defer the application to allow for further consideration/provision of further information in respect of:
- Highways issues, including the potential for closure of one of the access points, the arrangements within the forecourt for the movement of vehicles and traffic movements in and around the site
  - The potential for shortening the proposed hours of use, with advice from Environmental Health Officers.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site is a former vehicle servicing centre and repairs garage, car sales pitch and auto parts sales centre. It is located on a corner site, bounded by Wakefield Road to the south and Waterloo Road to the west. It comprises an extensive hard-surfaced forecourt on the corner and road frontage with vehicular access and egress points on both road frontages, three linked flat-roofed buildings constructed in mixed materials towards the centre of the site, and further hard-surfaced land near the northern boundary.

2.2 On the opposite side of Wakefield Road is a taxi base whilst to the east of the site is a belt of woodland and a landscaped area adjacent to a retail park. The nearby development to the west is mainly residential. According to the applicant, the uses ceased completely at the end of June 2021 and the site is now vacant.

### **3.0 PROPOSAL:**

3.1 The proposal seeks full planning permission to change the use of the building and associated land to a hot food takeaway.

3.2 The proposed hours of use as stated on the application form are 7am until 11pm, 7 days a week. However, the applicant has subsequently confirmed that alternative hours of 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays would be acceptable from an operational point of view. It is predicted that there would be 6 full-time equivalent staff.

3.3 The Highway Statement prepared by Sanderson Associates and associated technical drawings show 7 staff parking spaces, 5 spaces or bays for customers, 4 electric delivery vehicle bays, one delivery vehicle charging space, making 17 spaces altogether.

3.4 Partial demolition of the eastern part of the building would be carried out so as to create a passageway for vehicles, but no new build is proposed.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 None.

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

5.1 22-Jun-2021: Transport assessment submitted.

05-Nov-2021: Amended transport data and details of vehicular layouts submitted.

25-Nov-2021: Additional statement giving justification for the latest proposed arrangements

None of the above were subject to new publicity since they were not considered to raise significant new issues or significantly change the nature or scale of the proposal.

### **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 27<sup>th</sup> February 2019).

#### Kirklees Local Plan (2019):

6.2 The site is within land that is within the Strategic Green Infrastructure Network on the Kirklees Local Plan. About 20% of the site is within Urban Green Space.

- 6.3 The site is located 40m from the boundary with Waterloo Local Centre.
- 6.4 It is considered that the scale and nature of the development does not raise access or Equality Act considerations.

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 13:** Town centre uses
- **LP 16:** Food and drink uses and the evening economy
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 30:** Biodiversity and geodiversity
- **LP 31:** Strategic Green Infrastructure Network
- **LP 33:** Trees
- **LP 52:** Protection and improvement of environmental quality
- **LP 61:** Urban green space

6.5 Supplementary Planning Guidance / Guidance Documents:

- KC Highways Design Guide 2019
- Climate Change Guidance for Planning Applications (June 2021)
- Hot Food Take-away (Draft Stage)

6.6 National Planning Guidance:

- Chapter 7 – Ensuring the vitality of town centres
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 Final publicity date expired 05-Oct-2020.
- 7.2 A total of 54 representations were made by members of the public.
- 7.3 One representation was made by Ward Councillor Musarrat Khan, who represents Dalton Ward, and one from Councillor Alison Munro, who represents the neighbouring Almondbury Ward.
- 7.4 Against – 22 representations, a summary of the representations made are as follows:
- Highway safety issues if it makes use of the existing access because of motorists using it to cut through the traffic lights and the increase in footfall.
  - Increased traffic at what is already a busy junction
  - They have overestimated the amount of parking available and it is not clear that there will be space for deliveries

- Increased air pollution arising from traffic
- Increased noise nuisance and light pollution
- Odours
- Public health – too many takeaways in Waterloo already
- Increased anti-social behaviour
- Increased litter
- Concerns about food waste and disposal
- Impact on property values
- The site could be used for homes, a community centre, or to facilitate junction improvements
- Why not use the former Total Fitness centre as it has ample parking?
- Contrary to Policy LP47 of the Local Plan regarding Healthy, active and safe lifestyles

7.5 In support – 30 representations, a summary of the representations made are as follows:

- It might take pressure off McDonalds because having just one drive-thru takeaway leads to congestion inside the retail park.
- It would stop cars taking a short cut through the garage site.
- It is a good place for a takeaway with safe access and egress, traffic lights and crossings already in place, ample parking and easily accessible by foot or bus. Traffic is not very problematic at the moment, with only occasional queues. The garage would generate as much, or more, traffic and noise if it were in use.
- It would provide an additional option for people who want to buy food without going into the retail park and would give people more daytime / early evening options.
- Would create local jobs, including for young people who may want to work part-time while studying.
- Lighting, CCTV and parking bollards will improve safety.
- Healthy / vegan options would be welcomed.
- Convenient location for customers.
- The existing site is an eyesore.

7.6 General Comments – 2 representations, a summary of the representations made are as follows:

- It is considered that the supporting documents for the proposed change of use should include a Traffic Impact Assessment (TIA) which assesses the effect of the proposed commercial use on the surrounding road network, including Waterloo Road and Wakefield Road, both of which currently suffer from congestion. A TIA would provide a more robust means to assess the traffic implications of the proposals relative to the local plan transport objectives which seek to reduce congestion rather than add to it.
- Not appropriate here because junction too busy.

7.7 Ward Councillor Musarrat Khan – comments and requests a Sub-Committee decision.

- I have received a number of emails and phone calls from concerned residents in the immediate area. Over the years I have supported residents with a number of complaints in relation to the nearby existing MacDonalDs. These complaints are in relation to late night anti-social behaviour and

noise, and littering in the area. Safer Kirklees and waste services have worked with me on numerous occasions to remedy these issues. Many of the residents are vulnerable elderly, with some households in receipt of social care. Crown Motors was open from 8 am till 4:30 pm and the noise was minimal. This application is seeking consent for operational times to be extended from 7 am to 11 pm and will no doubt increase the amount of noise and littering in the vicinity as well possibly attract more anti-social behaviour. The noise will have a detrimental impact on the residents' peaceful residence in and around the immediate area.

- Nearly half of adults in Dalton Ward are either overweight or obese. There are already five unhealthy hot food outlets. I see the business is invited to work with FINE however there is no stipulation once granted permission that healthy hot food is promoted nor any powers to enforce any food outlet to serve healthy food.
- Waterloo Road has suffered from high levels of traffic congestion with queues stretching from the junction at Albany Road to Wakefield Road. I have approached Highways to request remedial action previously and have been told nothing can be done. The residents will no doubt be experiencing poor air quality due to this existing traffic congestion. Should this application be granted the roads will no doubt be more busier for longer periods and the air quality further reduced.
- The proposal to close the exit will only exacerbate the traffic issues and isn't really a solution. I would rather the developer used Penistone Road to exit and access the site and I think this is the safest solution.
- The site is more suitable for a hairdressers, garage or retail. Please may I request that this application is referred to the planning committee?

#### 7.8 Councillor Alison Munro (Almondbury Ward Councillor) – comments

- It is already used as a cut-through between Waterloo Road and Wakefield Road and this may continue with a drive-through takeaway.
- The highway is very busy and there was a serious accident at the junction recently. I feel therefore that until some highways safety measures are implemented this should not be a viable proposition as the takeaway will only serve to increase footfall and raise the risk of a serious accident happening again.
- In the meantime, LP 19 of the Local Plan – Transport- Site TS3 A629/A642 provides for junction improvements on roads approaching Huddersfield Town Centre to reduce congestion and improve connectivity to Huddersfield and destinations beyond. – This takeaway will only create more congestion at this junction. I therefore feel a full and robust traffic assessment be carried out to ascertain the implications for the highway in relation to the Local Plan objectives as not only will it impact upon Waterloo Rd/Wakefield Rd, but Penistone Rd too.
- Finally, there is already a dearth of takeaways in Waterloo and it is well known that takeaway food can be bad for health. I seriously question whether another one is really needed. It is not known what kind of hot food this takeaway will provide, but this needs to be explored if the council is to approve the application.

## **8.0 CONSULTATION RESPONSES:**

Below is a summary of the consultation responses received during the course of the application. Where appropriate, responses are expanded on further in the main assessment:

### **8.1 Statutory:**

KC Highways Development Management – No objection

KC Environmental Health – No objection

### **8.2 Non-statutory:**

KC Planning Policy – No objection

KC Police Architectural Liaison Officer – No objection

KC Public Health – No objection

## **9.0 MAIN ISSUES**

- Principle of development
- Impact on vitality and viability of commercial centres
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The majority of the site is without designation on the Local Plan proposals map, but about 20% of the site – the northern and north-eastern part – is within urban green space. Under Policy LP61, development on urban green space will be permitted only in a limited range of circumstances.
- 10.2 Besides the assessment of urban green space issues, the main planning policy issues to be taken into account will be the impact of the proposed development on the town and local centres, healthy lifestyles, highway safety, residential amenity and all other material planning considerations and representations received.
- 10.3 Policy LP16 in particular is concerned with food and drink uses and the evening economy. It assumes that such uses will normally be located in an existing centre, which this proposal is not, but it is considered that criteria (b) to (g) dealing with environmental impacts, antisocial behaviour and so forth, can be treated as relevant.

- 10.4 Policy LP47 states that healthy, safe and active lifestyles will be enabled by “working with partners to manage the location of hot food takeaways particularly in areas of poor health”. This aim is also supported by Planning Practice Guidance – health and wellbeing.

#### Urban green space issues

- 10.5 Policy LP61 states that development proposals leading to a loss of urban green space will only be permitted where:
- (a) an assessment shows it is no longer required to meet local needs for open space, sport or recreational facilities, and does not make an important contribution in terms of visual amenity, landscape or biodiversity value;
  - (b) replacement open space, sport or recreational facilities will be provided;
  - (c) the proposal is for an alternative opens space, sports or recreational use that is needed to help address existing deficiencies.
- 10.6 None of the above exemptions apply. Following advice from the Council Legal Officer, officers took the view that the development would represent a loss of urban green space and would contravene policy LP61. Planning officers must therefore assess whether the nature of the development, the character of the site, or other factors, amount to exceptional circumstances that would justify an approval as an exception to normal planning policy.
- 10.7 The area is already hard-surfaced and has been used for parking associated with the host building on site for many years. It would appear that no physical works would need to be undertaken in connection with the proposed development that would change what is currently evident at the site. From the case officer’s own observations on site, the existing concrete and tarmac hardstanding around the north and north-east of the building is in an acceptable condition and is not likely to need to be re-laid in the short term if the development is approved and subsequently implemented.
- 10.8 The development would not result in any material change to the character or nature of the urban green space, and which provides no opportunity for public access or recreation and makes no significant positive contribution to visual amenity. Since no new build is proposed, the adjacent mature trees would be unaffected thereby complying with the aims of LP33. It is therefore considered that the development would not result in any significant or material loss of urban green space and, although not in accordance with the requirements of Policy LP61, can in principle be allowed, subject to a full assessment of all other planning issues.

#### Impact on vitality and viability of commercial centres

- 10.9 The proposed hot food takeaway represents a main town centre use and is outside any existing commercial centres as defined on the Local Plan proposals map. 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, and that main town centre uses outside of defined centres will require a sequential test to assess their suitability. Chapter 7 of the NPPF also supports this aim. Hot food takeaways are not explicitly categorised as a “main town centre use” in the NPPF. However, Policy LP16 (see paragraph 10.2 below) states that proposals for food and drink uses located outside defined centres will also require the submission of a Sequential Test.



- 10.10 The site is in an edge of centre location being 40m to the east of the defined Local Centre of Waterloo. A sequential test has therefore been requested and has been submitted.
- 10.11 The catchment of the proposal is the established customer base from the applicants Fenay Bridge site (approx. 1.2 km south east) and passing trade. The Fenay Bridge site is a bar and restaurant which switched to a takeaway and delivery service in response to Covid-19 restrictions. The applicant wishes to retain and expand the takeaway service at the application site when the Fenay Bridge site returns to normal business as a bar and restaurant.
- 10.12 In the sequential assessment, it states that the proposal requires a minimum of 0.3ha including sufficient parking to meet operational needs.
- 10.13 Paragraphs 3.19 to 3.21 of the sequential assessment set out the area of search and refer to the centres of Waterloo, Dalton Green Lane, Aspley and Huddersfield Town Centre. It is considered that in this instance the defined District Centres of Almondbury and Moldgreen and the Local Centre of Lepton should have been treated as being within the catchment of the proposal. However, Planning Policy have commented that on the basis of their own desk-based research, there do not appear to be any sites within the Almondbury, Moldgreen and Lepton centres that could accommodate the proposal, taking account of flexibility in format and scale.
- 10.14 The applicant has not found any sites available and suitable in Waterloo, Dalton Green Lane or Aspley Local Centres. Reference is made to the Top Spot Snooker Centre in Aspley which is available, but it is accepted that it is not suitable for the proposal even when taking account of flexibility, on account of there being too few parking spaces and it being spread over three floors. In reference to Huddersfield Town Centre, the applicant states that Harvey's Bar/Kitchen are in the process of opening a new branch in the HD1 area of the Town Centre and that having two such businesses in the Town Centre would not be viable.
- 10.15 Given that Huddersfield Town Centre is, in any case, not within the catchment area of the proposal, as set out above, it is considered that it should be excluded from the area of search.
- 10.16 In conclusion, it has been demonstrated that there are no suitable and available sites within the catchment of the proposal taking account of flexibility including format and scale.
- 10.17 Under Policy LP13, an Impact Assessment is only required for proposals which include retail, leisure and office developments (which this is not); policy LP16, however, recommends that an Impact Assessment should be submitted for all food and drink uses outside defined centres. In this instance it is considered that an Impact Assessment would be unnecessary since, owing to the catchment it would serve, it would not be competing directly with businesses in commercial centres.
- 10.18 The proposal is therefore in accordance with the aims of Local Plan policy LP13 and 16 and paragraph 87 of the NPPF.

### Healthy, safe and active lifestyles

- 10.19 The Council has been preparing a Hot Food Takeaway SPD to consider the location and impact of new takeaways and add further guidance to Local Plan policies. The preparation of this guidance was on hold due to the relaxation of planning restrictions on restaurants providing takeaway services in the Covid-19 pandemic. The emerging SPD is not adopted and is only now out to public consultation. It therefore carries no weight in decision making at this stage. Accordingly, Local Plan policies should continue to be used to determine applications for new Hot Food Takeaways. This includes Policy LP47(j), that the Council will work with partners to manage the location of hot food take-aways particularly in areas of poor health.
- 10.20 Nevertheless, to consider the impact of the development on health, Kirklees Public Health have been consulted. They make use of the Public Health Toolkit to assess the impact of the development on health. The toolkit uses a range of local data, known as indicators, these are: Index of Multiple Deprivation (IMD) quintile, Percentage of adults overweight, Percentage of adults obese, Percentage of 5-year olds (reception) with excess weight, Percentage of 11-year olds (year 6) with excess weight, Diabetes prevalence rate, Coronary heart disease prevalence rate. The toolkit advises that an application for a hot food takeaway should be refused where the location has a combined points total of 20 or more across the seven indicators.
- 10.21 When considering these indicators, it is important to have a balanced and fair approach to supporting local business and economic growth, whilst also taking steps to ensure our environments support the health and wellbeing of our residents. It is also recognised that the tool utilises data from a range of sources, some refreshed annually, and others updated less frequently.
- 10.22 Dalton Ward has been found to be in the worst 40-50% on the IMD (Index of Multiple Deprivation), scoring 2 points, and it also scores 2 points for diabetes prevalence, 4 points for coronary heart disease prevalence, and 6 points for 5-year-olds with excess weight. The combined points total is 14, which indicates that the proposal would not result in an unacceptable increase in poor health or health inequalities.
- 10.23 Where a new proposed hot food takeaway is within 400m of a school, Kirklees Public Health recommend that consideration should be given to restricting opening hours to discourage visits by school-age children. This is not the case here as the nearest school (Dalton Junior, Infant and Nursery) is approximately 800m away. It is therefore considered that school children would not form part of the customer base and given this distance, it is unlikely that they would use the takeaway.
- 10.24 For the reasons set out above, it would thereby accord with the aims of LP47 of the Local Plan.

### Urban Design issues

- 10.25 The proposal involves no new build and only minor physical alterations to the buildings or associated land. The formation of the new internal passageway for vehicles would involve partial demolition to create an opening front and rear, and the windows would also be removed from the side elevation. For the

avoidance of doubt, it is recommended that a condition be imposed to require details to be submitted showing how the building would be made good following the partial demolition. Subject to this, it is considered that it would be neutral in its impact on visual amenity and the townscape, and therefore in accordance with the aims of LP24(a).

#### Residential Amenity

- 10.26 The site is located within a predominantly residential area. It is the view of Environmental Health Officers that the originally proposed hours of use are acceptable. However, concerns about the proposed hours were expressed at the last Committee meeting. In order to allay these concerns, the agent has offered to reduce both the morning and evening opening hours, which would then be 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays, and these can be conditioned. In order to ensure that noise from the operation of the premises, such as from extractor fans and other plant does not give rise to undue levels of noise disturbance, it is recommended that approval be subject to a condition that before the use is commenced, an assessment of noise emissions and necessary attenuation measures be submitted to and approved in writing.
- 10.27 In the interests of ensuring that cooking fumes are controlled and do not give rise to odour nuisance, it should also be conditioned that details of a kitchen extract ventilation system are submitted and approved, and the scheme installed before the use commences.
- 10.28 No external lighting is proposed as part of the scheme, but in the event of it being deemed necessary for security or customer safety reasons, details must be submitted and approved so as to ensure that any lighting installed does not give rise to loss of residential amenity or environmental impacts arising from glare, light spill, or light trespass. This would be secured by condition.
- 10.29 Subject to the above, it is considered that it would accord with the aims of LP24(b), LP16(b) and LP52.

#### Highway issues

- 10.30 Highways Development Management initially requested: details of trip generation, so as to demonstrate that the trips generated would be safely incorporated by the junction without causing additional delay or highway safety issues; a scaled drawing showing the parking that would actually be available rather than just an indicative sketch; clarification as to what the access arrangements would be; assurance that wastes could safely be collected from within the site. These were all provided and were used to inform the officer's report and recommendation.
- 10.31 Following deferral of the application at the October Strategic Committee, further plans were submitted changing the proposed layout, which are examined and commented on in paragraphs 10.32-40 below.
- 10.32 Waterloo Road and A642 Wakefield Road join at a complex signalised junction with the A629 Penistone Road adjacent to the application site. The junction is very busy, especially during the peak hours, when congestion does occur. Kirklees Highway Safety team have records of issues regarding rat running traffic using the site to avoid the traffic signals and would like to see this concern dealt with.

- 10.33 A detailed Highway Statement was prepared by Sanderson Associates date 21-Jun-2021. Trip generation was calculated using the Trip Rate Information Computer System (TRICS) database. The trip generation calculations (taking the most recent use of the site as the baseline) indicated that in the morning peak approximately 35 additional trips and in the evening peak approximately 30 additional trips would be generated by the proposals. It should be noted that the extant use calculations and the proposed use calculations were based on slightly different floor areas and that any change in these would increase the number of additional trips to approximately 38 in the am peak hour and 37 in the pm peak hour. The Saturday trips were shown to decrease between the extant and proposed uses during the highway peak (12:00 to 13:00), however there would be expected to be an increase in trips during the evening. It should be noted that these figures were based on the retail and repairs garage uses only and did not take into account trips associated with the petrol filling station.
- 10.34 New figures for trip generation were submitted on 4<sup>th</sup> November 2021, which took into account all three of the previous uses – the petrol filling station, car showroom and car repair garage. This found that taking a comparison between the previous uses and proposed use, there would be a significant reduction in trips compared to peak hours, from 63 to 42 (AM) and from 66 to 44 (PM).
- 10.35 The Highway Statement details the proposed operation of the development which is broken down as 30% click and collect, 65% delivery, with the remainder drive-in pass-by trips. This is based on the operation of the existing Fenay Bridge site. It is proposed that an app would be used by customers for both click & collect and delivery. When the order is placed, the app would provide a delivery/collection time to the customer. The app would be controlled by a Content Management System (CMS) in order to manage the number of orders at any time to prevent congestion within the kitchen and subsequently, controlling the number of arrivals on site to collect orders and the dispatch of deliveries. For click & collect orders, the customer would be expected to arrive on site at the collection time given. If the customer is early or the preparation of their order has been delayed for any reason the customer would be asked to wait. If customers arrive on site without having placed an order in advance, they would then be able place an order from a reduced menu, specifically designed to cater for pass-by trade by providing a short wait time.
- 10.36 An amended parking and circulation layout has also been submitted. The changes shown on Fig 4 Revision A are regarded as a further improvement from those originally shown in the consultants' report. With the addition of the collection lane, there is additional stacking space for customer vehicles within the site, and any driver's intent on using the premises as a short-cut would face a more tortuous route, so such behaviour would be disincentivised.
- 10.37 The access onto Wakefield Road would be maintained as an exit with left turn only and with improvements to improve safety. It is proposed that the access would be narrowed to 4.8m in width by the construction of fencing either side, and a "no entry" sign installed to discourage movements from Wakefield Road. It is also proposed that markings and a "left turn only" sign would be installed to prevent right turn movements from the exit and a "Customers Only" sign at the Waterloo Road access to discourage use of the site as a cut through to avoid the traffic signals. These measures were proposed on the version previously presented to Committee. The latest amendment, (Figure 4 Revision A), also proposes to add vehicle flow plates, which physically prevent entry

from Wakefield Road. It is considered that if these measures are implemented, which can be conditioned, the proposals are an enhancement to road safety from the current position.

10.38 Consideration has been given to the complete closure of the Wakefield Road access as requested by Members at the last Strategic Committee. This is not an option that is favoured by the developer but nevertheless, a drawing to consider this theoretical alternative has been submitted for completeness. The applicant has made the following additional arguments in support of the “left turn only” proposal and retaining both access points:

- A high proportion of delivery customers are expected to be from the local area, such as Lepton, Flockton, Kirkburton, and as such the ability to turn left on to Wakefield Road would mean fewer delivery vehicles having to negotiate the signalled junction of Waterloo Road – Wakefield Road.
- If all vehicles had to exit by means of Waterloo Road there would be more congestion within the site.

10.39 Highways Development Management are of the view that the closure of the access would be preferred, since this would completely put an end to rat-running through the site, but that it is not absolutely essential to allow the development to proceed. It is the view both of Highways and Planning Officers that the new arrangement is acceptable in highway safety terms.

10.40 Turning to parking provision, the TRICS-based car park accumulation was included within the highway statement and this calculated that only 6 parking spaces would be required at any given time, although it is noted that this could vary depending on how the premises were operated. In view of the way the development is intended to operate, the number of parking spaces that would be available within the site is considered more than adequate to serve the proposed takeaway. A swept path analysis for an 11.85m refuse vehicle was shown on one of the earlier layouts which demonstrated that access for a vehicle of this size and type can be safely accommodated with the proposed layout, and the Highway Officer has confirmed that this would still be possible under the most recent layout. The manoeuvring of the refuse vehicle will require one of the spaces to be temporarily closed, but this should be easily managed as the waste collection time will be scheduled in advance. The applicant has confirmed that it is intended that all refuse storage would be within the building. In the event of capacity being insufficient, there would be room to store waste containers at the rear of the site without it interfering with vehicle movements.

10.41 With this additional information as provided in the Highway Statement, the improved parking, access and circulation layouts submitted 05-Nov, the application is judged to be acceptable on highways grounds. It is therefore considered to be in accordance with the aims of policies LP21, LP22 and LP16(d-f) of the KLP.

#### Drainage issues

10.42 The site is located within a Critical Drainage Area but as it is for change of use only it is not considered to have any drainage implications.

## Representations

10.43 Concerns relating to highway safety and residential amenity are highlighted here with other issues raised and officer responses.

10.44 Against – 21 representations

- Highway safety issues if it makes use of the existing access because of motorists using it to cut through the traffic lights and the increase in footfall.

**Response:** It is considered that the proposed use, with the new signage as proposed, would mean it would be less likely that motorists would use the site as a short cut, and although this behaviour might not be entirely eliminated, it is anticipated it would be reduced.

- Increased traffic at what is already a busy junction

**Response:** It is considered that net trip generation would not be in excess of what the junction can safely take on.

- They have overestimated the amount of parking available and it is not clear that there will be space for deliveries

**Response:** The original parking layout was just a sketch and could not be assessed. The parking plan submitted with the Transport Assessment shows that there would be adequate space for customer and staff parking and for deliveries.

- Increased air pollution arising from traffic.

**Response:** The site is not within an air quality management area and in any case it is not considered that the potential impact on air quality arising from increased net vehicle movements would be material.

- Increased noise nuisance and light pollution

**Response:** Both of these can be controlled by conditions as set out in detail in paragraphs 10.25-28 and it is considered that unacceptable impacts can be avoided.

- Odours

**Response:** Again, it can be conditioned that details of an air extraction system showing appropriate methods of treating fumes can be conditioned.

- Public health – too many takeaways in Waterloo already

**Response:** It is considered that given the existing health indicators, the existing concentration of takeaways in the local area or in the Ward would not provide a basis for refusal on health grounds.

- Increased anti-social behaviour

**Response:** This is a concern which can be overcome or mitigated by requiring a CCTV scheme.

- Increased litter

**Response:** Whilst an understandable concern, it is considered that this would not amount to a policy-based reason for refusal.

- Concerns about food waste and disposal

**Response:** There would be sufficient space to store waste containers at the rear of the site without it inhibiting vehicle movements. The Highway Statement plan shows that wastes can be collected from within the site. Waste disposal would have to accord with appropriate legislation concerning health and safety.

- Impact on property values

**Response:** Perceived impact on property value is deemed to be a private interest and therefore not a material planning consideration.

- The site could be used for homes, a community centre, or to facilitate junction improvements

**Response:** The site is not allocated for any specific use on the Local Plan and hypothetical alternative uses, even if they would potential bring greater public benefit, cannot be treated as a material consideration.

- Why not use the former Total Fitness centre as it has ample parking?

**Response:** The Total Fitness premises are quite a large building, judging by external measurements would appear to have over 3,000sqm of floorspace which would appear to be far in excess of the applicant's functional requirements. Furthermore, it is outside any recognised town or local centre and is therefore not sequentially preferable in planning terms.

- Contrary to LP47 of the local plan on healthy lifestyles.

**Response:** It is considered that the extent of poor health within the Dalton ward, as set out in paragraph 10.19-22 above, is not at a level that would justify refusing the application.

#### 10.45 In support – 22 representations

- It might take pressure off McDonalds because having just one drive-thru takeaway leads to congestion inside the retail park.

**Response:** It is possible it might divert some trade from the nearby McDonalds but this has not been given any weight as a factor in assessing the application.

- It would stop cars taking a short cut through the garage site.

**Response:** It is the view of the Highway Officer that the installation of appropriate signage would reduce the likelihood of this happening although it would probably not be possible to totally eliminate such behaviour.

- It is a good place for a takeaway with safe access and egress, traffic lights and crossings already in place, ample parking and easily accessible by foot or bus. Traffic is not very problematic at the moment, with only occasional queues. The garage would generate as much, or more, traffic and noise if it were in use

**Response:** The Highway Statement predicts some additional trip generation but based on the layout and other details set out in the Highway Statement, officers conclude that this would be manageable.

- It would provide an additional option for people who want to buy food without going into the retail park and would give people more daytime / early evening options

**Response:** Perceived public demand for the proposed takeaway is not a factor that can be afforded significant weight since it is subjective and therefore cannot be treated as a material planning consideration.

- Would create local jobs, including for young people who may want to work part-time while studying.

**Response:** It is expected that jobs would be created but no significant weight has been placed on this factor in the assessment of the application.

- Lighting, CCTV and parking bollards will improve safety

**Response:** There is no proposal at this stage for new or upgraded lighting; a condition can however be imposed so that if it is deemed necessary, details must be submitted and approved. A CCTV scheme can also be controlled by condition in the interests of crime prevention. The Wakefield Road access would be narrowed by means of metal fencing rather than concrete bollards.

- Healthy / vegan options would be welcomed.

**Response:** It is doubtful that this could be controlled through the planning process.

- Convenient location for customers

**Response:** This is subjective but it is anticipated that a large proportion of customers would live or work in the local area.

- The existing site is an eyesore.

**Response:** The existing buildings, when visited by the case officer, appeared to be in a good state of repair and not affected by vandalism, but finding a new use for vacant buildings is in principle something to be welcomed as it would help to prevent them deteriorating.

#### 10.46 Comments – 2 representations

- It is considered that the supporting documents for the proposed change of use should include a Traffic Impact Assessment (TIA) which assesses the effect of the proposed commercial use on the surrounding road network, including Waterloo Road and Wakefield Road, both of which currently suffer from congestion. A TIA would provide a more robust means to assess the traffic implications of the proposals relative to the local plan transport objectives which seek to reduce congestion rather than add to it

**Response:** A Highway Statement has been submitted, which has informed the report and recommendation.

- Not appropriate here because junction too busy

**Response:** Highways issues, especially those concerning the junction, have been examined in detail in sections



#### 10.47 Ward Councillor Musarrat Khan – comments:

- I have received a number of emails and phone calls from concerned residents in the immediate area. Over the years I have supported residents with a number of complaints in relation to the nearby existing MacDonalds. These complaints are in relation to late night anti-social behaviour and noise, and littering in the area. Safer Kirklees and waste services have worked with me on numerous occasions to remedy these issues. Many of the residents are vulnerable elderly with some households in receipt of social care. Crown Motors was open from 8 am till 4:30 pm and the noise was minimal. This application is seeking consent for operational times to be extended from 7 am to 11 pm and will no doubt increase the amount of noise and littering in the vicinity as well possibly attract more anti-social behaviour. The noise will have a detrimental impact on the residents' peaceful residence in and around the immediate area.

**Response:** Anti-social behaviour in the local area is a concern (see 10.43 below) but it is considered that it does not amount to a reason to refuse since the possibility of such problems occurring can be substantially mitigated by a condition requiring the installation of CCTV.

Opening hours of 7am until 11pm daily might not be suitable for all locations, and if it were in a quiet area with a wholly residential character, shorter hours would be sought. It is however noted that this location is, as previously observed, on a very busy road junction and in an area with a mix of uses albeit with a strong residential element. Furthermore, the building does not directly adjoin residential properties (the nearest is 4 Waterloo Road, the side elevation of which faces the rear of the premises at about 15m distance). Cllr Musarrat Khan's concerns are noted and specifically that there is a higher than average concentration of elderly or other vulnerable people in the vicinity of the site, however, based on the observations of the Environmental Health Officer, it is considered that the proposed opening hours are acceptable and that any potential issues of noise generation can be satisfactorily addressed by a condition requiring a full noise survey before the use commences.

- Nearly half of adults in Dalton Ward are either overweight or obese. There are already five unhealthy hot food outlets. I see the business is invited to work with FINE however there is no stipulation once granted permission that healthy hot food is promoted nor any powers to enforce any food outlet to serve healthy food.

**Response:** This issue has been examined in paragraph 10.19-22 above. Based on advice from Kirklees Public Health, the levels of excessive weight, obesity and general poor health in the ward are not of sufficient magnitude to justify refusing the application on public health grounds. It would not realistically be possible to control the type of food on offer using planning powers.

- Waterloo Road has suffered from high levels of traffic congestion with queues stretching from the junction at Albany Road to Wakefield road. I have approached Highways to request remedial action previously and have been told nothing can be done. The residents will no doubt be experiencing poor air quality due to this existing traffic congestion. Should this application be granted the roads will no doubt be busier for longer periods and the air quality further reduced.

**Response:** Impact on highway safety issues has been examined in detail earlier in the report. It is considered that the local highway network is of a

sufficient standard to take on any additional traffic generated, and that subject to conditions as previously set out, would not lead to any worsening of highway safety. The site is not within an Air Quality Management Area and therefore the possible localised increase in vehicle emissions cannot be afforded significant weight in the planning process.

- The proposal to close the exit will only exacerbate the traffic issues and isn't really a solution. I would rather the developer used Penistone Road to exit and access the site and I think this is the safest solution.

**Response:** Again, the closure of the Wakefield Road access is not the applicant's favoured alternative.

- The site is more suitable for a hairdressers, garage or retail. Please may I request that this application is referred to the planning committee?

**Response:** The existence of hypothetical alternative uses which might generate less traffic or have fewer impacts on their surroundings cannot be treated as a material planning consideration.

#### 10.47 Councillor Alison Munro – comments

- It is already used as a cut-through between Waterloo Road and Wakefield Road and this may continue with a drive-through takeaway.

**Response:** As previously stated it is considered that with appropriate signage this problem should be reduced.

- The highway is very busy and there was a serious accident at the junction recently. I feel therefore that until some highway's safety measures are implemented this should not be a viable proposition as the takeaway will only serve to increase footfall and raise the risk of a serious accident happening again.

**Response:** It is noted that it is a very busy junction, but it is considered that with a one-way system in place, and proposed works including signage, the amount of additional vehicular movements associated with the site would not give rise to a material increase in highway safety problems.

- In the meantime, LP 19 of the Local Plan – Transport- Site TS3 A629/A642 provides for junction improvements on roads approaching Huddersfield Town Centre to reduce congestion and improve connectivity to Huddersfield and destinations beyond. – This takeaway will only create more congestion at this junction. I therefore feel a full and robust traffic assessment be carried out to ascertain the implications for the highway in relation to the Local Plan objectives as not only will it impact upon Waterloo Rd/Wakefield Rd, but Penistone Rd too.

**Response:** Based on the Highway Officer's comments, it is considered that the highway assessment submitted by the applicant is sufficiently detailed and has overcome officers' initial concerns.

- Finally, there is already a dearth of takeaways in Waterloo and it is well known that takeaway food can be bad for health. I seriously question whether another one is really needed. It is not known what kind of hot food this takeaway will provide, but this needs to be explored if the council is to approve the application.

**Response:** For reasons set out previously it is considered that public health impacts do not, in this instance, amount to a sufficiently serious concern to

justify a refusal, and it is unlikely that the Council could effectively control the type of food that would be served.

### Other Matters

- 10.48 *Crime and antisocial behaviour.* Hot food takeaways are sometimes associated with antisocial behaviour especially if the layout of the premises provides opportunities for loitering. It is therefore recommended that all public areas of the premises, including the car parking areas, and external entrance and exit points to the building, must be covered by CCTV. The submission of a plan giving details of the positioning of the cameras can be made the subject of a condition.
- 10.49 *Biodiversity:* Since the development involves no new build it is considered that it would be unreasonable to expect it to deliver biodiversity net gain. However, the condition requiring details of new external lighting to be submitted will ensure that external lighting does not give rise to negative impacts on adjacent land with wildlife habitat potential.
- 10.50 *Climate Change:* On 12<sup>th</sup> 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.
- 10.51 In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. However, it is considered that reusing an existing building within an accessible location that would draw upon passing trade and potentially encourage linked trips would in principle be compatible with the carbon reduction aims outlined above.
- 10.52 Furthermore an electric vehicle charging point would be installed to serve delivery vehicles, which can be conditioned in the interests of encouraging low impact means of transport. The applicant has subsequently confirmed that he would be willing to install a second charging point for staff. This would conform to the principle accepted by Kirklees that 1 in 10 unallocated parking spaces should normally have a charge point and can also be conditioned.

## **11.0 CONCLUSION**

- 11.1 It is considered that for the reasons set out in the report the proposed development would be appropriate in principle in this location and would not detract from the vitality or viability of town or local centres. It is considered that the arrangements shown would provide safe access to the local highway network and would avoid giving rise to increased highway safety problems. These are an improvement on the arrangements originally brought before Strategic Committee on 21<sup>st</sup> October. Subject to the conditions set out in the

report, it would ensure that no adverse impacts on residential amenity or the local environment would occur.

11.2 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 development would constitute sustainable development and it is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Development commences within 3 years.
2. Development to be in full accordance with plans and specifications
3. Areas for parking to be provided, marked and thereafter retained
4. Signage (as detailed in the highways statement) installed and thereafter retained
5. Hours of use to be 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays
6. Noise survey to be submitted and approved before the use commences
7. Details of ventilation system to be submitted and approved before use commences
8. No external lighting to be installed other than in accordance with an approved scheme.
9. CCTV scheme submitted and approved before the use commences.
10. Minimum of 2 electric charge points, one for delivery vehicles and one for staff.
11. Details of external works showing how the building is to be made good after demolition.

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91172>

Certificate of Ownership – Certificate A signed