
Report of the Head of Strategic Investment**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 01-Jun-2018****Subject: Planning Application 2018/90400 Change of use from retail (A1) to hot food take-away (A5) 169 , Bradford Road, Cleckheaton, BD19 3TJ****APPLICANT**

Justin Davis

DATE VALID

14-Feb-2018

TARGET DATE

11-Apr-2018

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: Cleckheaton

No

Ward Members consulted

RECOMMENDATION: REFUSE

1. The proposed change of use from A1 retail shop to A5 hot food takeaway will increase the balance of leisure uses in the centre to a level which will be detrimental to the retail mix and balance undermining the function of the local centre and contrary to Policy S14 of the Kirklees Unitary Development Plan, Policy PLP16 of the Kirklees Publication Draft Local Plan and Paragraph 69 of the National Planning Policy Framework.

2. The addition of a hot food takeaway, in an area where there are higher levels of deprivation, high numbers of hot food takeaways combined with high levels of overweight or obese children and adults, would not be in the interests of ensuring healthy, active and safe lifestyles in so far as resisting the location of hot food takeaways in areas of poor health contrary to Policy PLP47 of the Kirklees Publication Draft Local Plan.

3. The development would result in detriment to nearby occupants due to noise and odour emanating from the premises in addition to customer and delivery vehicle noise contrary to Policy EP4 of the Kirklees Unitary Development Plan, Policy PLP52 of the Kirklees Publication Draft Local Plan and Chapter 11 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Sub Committee for determination in accordance with the Council's scheme of delegation due to the number of representations that have been received. There has been a significant number of letters of support to the development with few objecting.
- 1.2 The application is a full application for change of use from retail (A1) to hot food takeaway (A5).

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is a small unit located along Bradford Road adjacent to existing commercial premises that include a sandwich shop and barbers shop. A residential unit neighbours the building to the north with a bed shop occupying a large unit adjacent to this.
- 2.2 The site is considered as being located within Moorend Local Centre but is adjacent to existing residential properties to the rear. The wider area comprises of mixed commercial and residential uses.

3.0 PROPOSAL:

3.1 The application is for the change of use of the existing premises from retail (A1) to hot food takeaway (A5).

3.2 The hours of opening are specified as:

Tuesday to Saturday	- 11:30 to 14:00 and 17:00 to 22:00
Sunday	- 16:00 to 22:00

3.3 The business would employ 2 full time staff.

3.4 There is no parking shown for use with the premises.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2003/91425 – Change of use of former hairdressers to pizza takeaway – refused due to increased vehicle movements and lack of parking in addition to the use being detrimental to existing residential occupants.

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

5.1 The agent has been made aware of the concerns relating to the application.

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 saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1** – Design Principles
S1 – Local Centres
S14 – Proposals for hot food takeaways
EP4 – Noise Generating Development
BE16 – New shop fronts
T10 – Highway safety

6.3 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

PLP1 – Presumption in favour of sustainable development

PLP2 – Place shaping

PLP16 – Food and Drink uses and the evening economy

PLP21 – Highway safety and access

PLP22 – Parking

PLP47 – Healthy, active and safe lifestyles

PLP52 – Protection and improvement of environmental quality

National Planning Guidance:

6.4 **Chapter 1** – Building a strong competitive economy

Chapter 2 – Ensuring the vitality of town centres

Chapter 7 – Requiring Good Design

Chapter 8 – Promoting healthy communities

Chapter 11 – Conserving and enhancing the natural environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application has received 34 individual representations. There have been 29 in support and 5 against. The comments are summarised as follows:

Support:

- Won't affect parking
- New premises and opportunities for local residents
- Jobs
- Attract more customers

Against:

- Lack of parking
- Another A5 use is not needed
- Intensification of traffic

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

K.C Highways Development Management – No objections

8.2 **Non-statutory:**

K.C Environmental Services – Recommend refusal

K.C. Policy – Recommend refusal

K.C. Public Health – Recommend refusal

9.0 **MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues

- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The proposal is for a change of use of the premises to a hot food takeaway which is regarded as a main town centre use. The site is within the local centre of Moorend and as such is considered to be in accordance with paragraph 24 of the NPPF, Unitary Development Plan (UDP) Policy S1 and Publication Draft Local Plan Policy (PDLP) PLP13. Paragraph 69 of the National Planning Policy Framework highlights that planning decisions should promote strong neighbourhood centres and active street frontages and UDP Policy S14 sets out that the proposal should be considered having regard to the following factors:

- Provision of car parking for customers and staff
- The effect on highway safety
- The effect on residential amenity
- The visual impact of any alterations proposed; and if the proposal is located within a town or local centre:
- The effect on the retail mix or balance of the centre.

In addition PDLP policy PLP16 reinforces the view that consideration should be given to the retail mix and balance of uses including cumulative impact.

- 10.2 Local centres should remain the focus for retail activity and the introduction of additional service uses should be weighed up against the existing uses. The latest occupancy survey data undertaken in May 2016 recorded 25 units within the study boundary. The composition of the shop units was recorded as follows:

Shop Unit Occupancy	Use Class	Number of Units
Convenience (food)	A1	4 (16%)
Comparison (non-food)	A1	6 (24%)
Retail Service	A1	4 (16%)
Leisure Service	A1 Takeaway (Sandwich bars) A3, A4, A5	10 (40%)
Vacant	Last known use (A1 in this case)	1 (4%)
TOTAL		25 (100%)

- 10.3 Of the 10 shop units recorded as leisure service, 7 are fast food and takeaway which equates to 28% of the total number of units. Note, this includes 2 takeaway sandwich shops. Should the application be approved and implemented the number of fast food takeaways would be 8 which would be 32% of the total number of units recorded in the centre. It is noted that there are no unimplemented planning permissions for hot food takeaways within the local centre.

- 10.4 The proposal is for a change of use which is currently occupied by an A1 use and therefore it has not been vacant for a significant length of time. It is considered that the addition of a new fast food takeaway unit would have a negative effect on the retail mix and balance reducing the centre's functional service of being able to provide for other main town centre uses and the potential for linked trips to other shops within the centre should it become vacant. Officers consider that the balance of the local centre would be altered unfavourably through the introduction of a new fast food and takeaway unit which would result in a detrimental impact on the vitality and viability of the local centre contrary to Policies S14 of the UDP and policy PLP16 of the PDLP.
- 10.5 In addition to weighing up the proposal with regards to the retail balance of the local centre matters regarding residential amenity and highway impacts are relevant and are considered later in the report.

Urban Design issues

- 10.6 The application does not include any physical alterations to the external appearance of the building though it is not clear where any extract ventilation may be positioned. It is possible that the rear elevation could accommodate any apparatus but in the absence of any such information a condition would be required to control the appearance and location.
- 10.7 Subject to condition it is considered that the proposal could accord with policy BE1 of the UDP, policy PLP24 of the PDLP, as well as chapter 7 of the NPPF.

Residential Amenity

- 10.8 Policies D2, EP4 and S14 of the UDP, in addition to PDLP Policy PLP16 seek to protect the residential amenity of occupants of neighbouring properties. A proposed layout / floor plan of the proposed development has not been submitted with the application to allow full assessment as to the implications of the development and how the close proximity of a hot food takeaway might impact on any adjoining occupants.
- 10.9 Details of the opening hours have been provided detailing that the hot food takeaway will be open until 22:00 Tuesday to Sunday including bank holiday weekends. It is understood that there are residential properties located to the rear and above the development (169A Bradford Road). The occupiers are likely to be affected by noise from the operations of the kitchen in addition to customers, deliveries and other vehicles contrary to Kirklees Unitary Development Plan Policy EP4 and Publication Draft Local Plan Policy PLP52.
- 10.10 There are no details submitted as to how the premises will be ventilated or odours controlled and as such there are concerns as to the impact of emissions on occupiers of nearby residential properties and to the local environment contrary to PDLP Policy PLP52 and Chapter 11 of the NPPF.

Highway issues

- 10.11 The change of use from A1 to A5 is not considered to intensify the use of the public highway for parking. Therefore, whilst no off street parking is incorporated in the proposed development due to the sustainable location with

good transport links and proximity to the local centre it is considered that the development is acceptable. Kirklees Highways DM raise no objections to the proposals which are considered acceptable and in accordance with Policy T10 of the Kirklees Unitary Development Plan and Policy PLP21 of the PDLP.

Other

10.12 *Public Health*

National planning policy guidance on “how can planning help create a healthier food environment?” advises that local planning authorities and planning applicants have particular regard to a number of issues including ‘evidence indicating high levels of obesity, deprivation and general poor health in specific locations and overconcentration and clustering of certain use classes within a specified area’.

- 10.13 Local plan policy PLP 47 Healthy, active and safe lifestyles criteria j refers to working with partners to manage the location of hot food takeaways particularly in areas of poor health.
- 10.14 Public Health have highlighted that 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.
- 10.15 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. There is also a marked gradient in obesity levels among adults. The Index of multiple deprivation shows that this area is within the 10 – 20% most deprived within Kirklees.
- 10.16 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.
- 10.17 Local data (Current Living in Kirklees, 2016) shows that 58% of the adult population living within the Cleckheaton ward are either overweight or obese.
- 10.18 The National Child Measurement Programme for 2016/2017 has recorded that 15% of Reception children in Cleckheaton are overweight, with 7% of Reception children being recorded as obese. For Year 6 children, this data also shows that 18% of these children are overweight and 21% of Year 6 children are obese.
- 10.19 Surveys indicate that there are already a sufficient number of hot food takeaways within this area, combined with the high levels of children and adults who are either overweight or obese, and higher levels of deprivation leads Officers to conclude that the development proposed is not acceptable and contrary to Policy S14 of the UDP and PDLP policy 47.

Representations

10.20 In so far as the representations have not been addressed above:

Support (29):

Won't affect parking

Response: The application proposals have been assessed by KC Highways Development Management and no objections have been raised due to the location being close to Moorend Centre, good transport links and on street parking being available.

New premises and opportunities for local residents

Response: It is acknowledged that the development will result in occupation of an existing retail unit, however this should not be to the detriment of the retail balance of the retail centre or to nearby occupants of residential properties.

Jobs

Response: The development will result in the creation of 2 full time jobs.

Attract more customers

Response: The use of the premises for a hot food takeaway would occupy a retail unit that would result in a negative balance

Objection (5):

Against:

Lack of parking

Response: The application proposals have been assessed by KC Highways Development Management and no objections have been raised due to the location being close to Moorend Centre, good transport links and on street parking being available.

Another A5 use is not needed

Response:

Officers would agree that the introduction of another hot food takeaway in this area would not be in the interest of the retail balance of the local centre.

Intensification of traffic

Response: The application proposals have been assessed by KC Highways Development Management and no objections have been raised due to the location being close to Moorend Centre, good transport links and on street parking being available.

11.0 CONCLUSION

- 11.1 The proposed change of use from A1 retail shop to A5 hot food takeaway will increase the balance of leisure uses in the centre to a level which will be detrimental to the retail mix and balance undermining the function of the local centre and contrary to Policy S14 of the Kirklees Unitary Development Plan, Policy PLP16 of the Kirklees Publication Draft Local Plan and Paragraph 69 of the National Planning Policy Framework.

- 11.2 The addition of a hot food takeaway, in an area where there are higher levels of deprivation, high numbers of hot food takeaways combined with high levels of overweight or obese children and adults, would not be in the interests of ensuring healthy, active and safe lifestyles in so far as resisting the location of hot food takeaways in areas of poor health contrary to Publication Draft Local Plan Policy PLP47.
- 11.3 Furthermore, the development would result in detriment to nearby occupants due to noise and odour emanating from the premises in addition to customer and delivery vehicle noise contrary to Policy EP4 and Publication Draft Local Plan Policy PLP52.
- 11.4 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.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Background Papers:

Application and history files:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90400>

Certificate of Ownership – Notice served on/ or Certificate A signed by the agent
Andrew Keeling