

28 Market Place Heywood OL10 4NL

Change of use of ground floor from shop (Class E) to hot food takeaway (sui generis) and installation of externally mounted flue to rear

PLANNING STATEMENT

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REPORT CONTROL



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/1 INTRODUCTION

1.1. PWA Planning, on behalf Mr Mohamed Ali Shari ('the applicant'), are submitting a full planning application for the change of use of ground floor from shop (Class E) to hot food takeaway (sui generis) and installation of externally mounted flue to rear at 28 Market Place Heywood OL10 4NL ('the site'). The application is made to Rochdale Borough Council ('the Council').

1.2. This application features a revised design to that which was subject of application 21/01281/FUL. The previous application was refused for the following reasons:

An additional hot food takeaway within the Heywood Town Centre Secondary Shopping Area would directly conflict with the requirements of Policy HF3 of the adopted Supplementary Planning Document 'Guidelines and Standards for Hot Food Takeaway Uses', resulting in a concentration of more than 10% hot food takeaway uses at ground floor level, and would harm the retail offer, viability and vitality of the centre. And

By reason of the proposed opening hours and use as a hot food takeaway, the proposed development would result in the intensification of activity at the site into the late evening and early morning through the comings and goings of customers and staff, and the congregation of customers to the front of the unit, which would lead to unacceptable levels of noise and disturbance, adversely impacting the residential amenity of the occupiers of the flats above. The harm to the amenity of the occupiers above would be compounded as the siting of the flue would severely restrict views out of the first floor rear facing bedroom window, and convincing justification has not been provided that cooking odours can be adequately controlled.

1.3. Following the above reasons for refusal the design and location of the flue has been amended, along with certain commitments which will satisfy the issues of over concentration of hot food takeaways, odour and noise and disturbance. More detailed information has also been provided regarding odour and noise.

1.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. This Planning Statement will demonstrate that the proposals accord with the provisions of the relevant policies of the Development Plan, and



that there are other significant material considerations which indicate that planning permission ought to be granted.

1.5. This Statement should be read in conjunction with the submitted application package, which includes the following documents:

- Ventilation Strategy (Fusion Hot Ltd)
- Drawn Information:
 - Location Plan (Scale: 1:1250)
 - Site Plan (Scale: 1:200)
 - Existing and Proposed Ground Floor Plan (Scale 1:50)
 - Existing and Proposed First Floor Plan (Scale 1:50)
 - Existing side, rear and front elevations (Scale 1:50)
 - Proposed side, rear and front elevation (Scale 1:50)

1.6. Should the Local Planning Authority require anything further to ensure the positive and speedy determination of the application, then it is requested that the agent is contacted in the first instance.



/2 SITE DESCRIPTION

- 2.1. The application site relates to no.28 Market Place ('the site'), which comprises of two storey terraced property with a two storey outrigger and single storey extension to the rear. The ground floor contains a vacant ground floor unit with a retail use (Use Class E), with the first floor of the property comprising a residential dwelling (Use Class C3).
- 2.2. The site sits on a row of terraced properties along the northern building line of Market Place in Heywood Town Centre. The site is flanked by the Olde Queen Anne public house to the east and an indoor children's playground to the west (Little Play Town Heywood Ltd). To the rear of the site runs a wide alleyway linking Bamford Road and Adelaide Street, and beyond lie car parking areas accessed off Longford Street.
- 2.3. The immediate surrounding area comprises a mix of town centre uses including public houses, retail, estate agents, banks, restaurants/cafes and fast-food takeaways.



Figure 1 - An aerial image of the site in its immediate surrounding. Image source: Google



/3 PLANNING HISTORY

- 3.1. A full search of the planning register has been carried out using the local authority's website, with applications made upon the site detailed below:
- 21/01281/FUL | *Change of use of ground floor from shop (Class E) to hot food takeaway (sui generis) and installation of externally mounted flue to rear. Refused 22 December 2021*
 - 19/00301/FUL | *Change of use of first floor from shop storage to two selfcontained flats including formation of new door opening rear elevation to provide separate access to flats. Granted 09 May 2019*
- 3.2. The refusal above (Ref: 21/01281/FUL) included two reasons for refusal. This stated:
1. *An additional hot food takeaway within the Heywood Town Centre Secondary Shopping Area would directly conflict with the requirements of Policy HF3 of the adopted Supplementary Planning Document 'Guidelines and Standards for Hot Food Takeaway Uses', resulting in a concentration of more than 10% hot food takeaway uses at ground floor level, and would harm the retail offer, viability and vitality of the centre. The proposal is therefore contrary to Policy E1 of the adopted Rochdale Core Strategy, Policy HF3 of the Supplementary Planning Document 'Guidelines and Standards for Hot Food Takeaway Uses', saved Policy S/4 of the adopted Rochdale Unitary Development Plan and the National Planning Policy Framework.*
- And*
2. *By reason of the proposed opening hours and use as a hot food takeaway, the proposed development would result in the intensification of activity at the site into the late evening and early morning through the comings and goings of customers and staff, and the congregation of customers to the front of the unit, which would lead to unacceptable levels of noise and disturbance, adversely impacting the residential amenity of the occupiers of the flats above. The harm to the amenity of the occupiers above would be compounded as the siting of the flue would severely restrict views out of the first floor rear facing bedroom window, and*



convincing justification has not been provided that cooking odours can be adequately controlled. The application is therefore contrary to the relevant parts of policies DM1 and G9 of the adopted Rochdale Core Strategy, Policy HF2 of the 'Guidelines and Standards for Hot Food Takeaway Uses' Supplementary Planning Document and the National Planning Policy Framework.

- 3.3. This planning application is a revision of the application refused in December 2021; the applicant has sought to resolve the issues regarding the impact of the flue on the amenity of the residential dwelling, whilst also addressing odour and noise disturbance matters. This includes the design and location of the flue, along with certain commitments which will satisfy the issues of over concentration of hot food takeaways, odour and noise and disturbance.

/4 PLANNING POLICY CONTEXT

- 4.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.” Material considerations include items such as the National Planning Policy Framework (NPPF) and other relevant local guidance, such as Supplementary Planning Documents.

Development Plan

- 4.2. Rochdale Borough Council’s Development Plan comprises the Core Strategy (2016) and the saved policies of the Unitary Development Plan. The site is located within the Heywood Secondary Shopping Area, see plan below. The building is not listed, nor located within a conservation area. Neither is it located in the setting of such heritage assets.

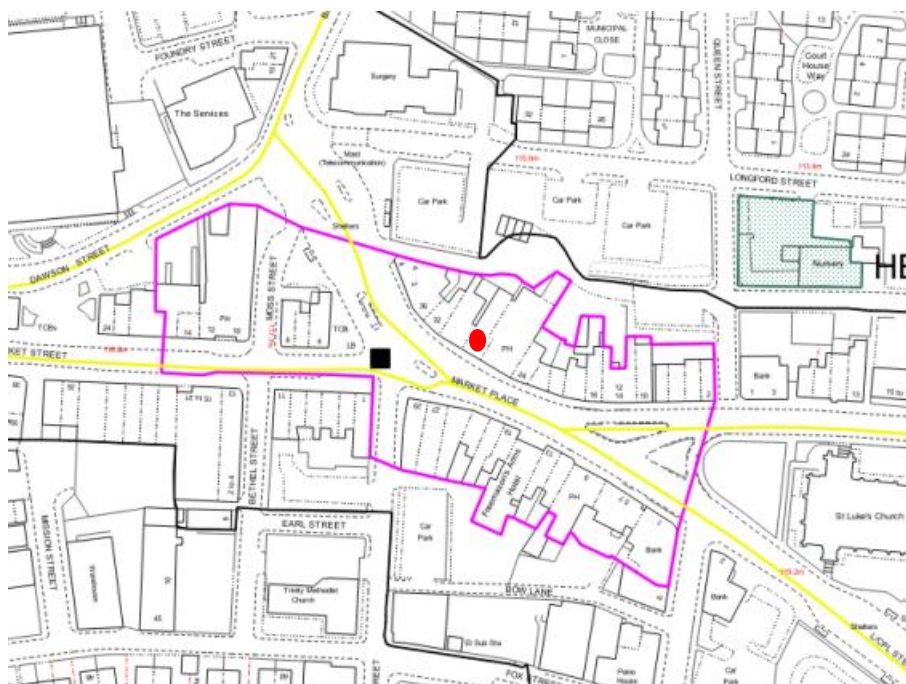


Figure 2 – Inset showing the Heywood Secondary Shopping Area, with the site highlighted by a red dot

- 4.3. Also of relevance to this application is the 'Guidelines & Standards for Hot Food Takeaway Uses' (April 2015, updated February 2017).



Rochdale Core Strategy (2016)

4.4. The Rochdale Core Strategy was adopted in 2016 and it is the lead document within the Development Plan. The following policies are relevant to this planning application:

- SP3/H The Strategy for Heywood
- Policy DM1 – General development requirements
- Policy E1 – Establishing thriving town, district and local centres
- Policy C2 – Focusing on regeneration areas and economic growth corridors / areas
- Policy C6 – Improving health and well being
- Policy P3 – Improving design of new development
- Policy G9 – Reducing the impact of pollution, contamination and land instability
- Policy T2 – Improving accessibility

4.5. A number of policies contained within the Unitary Development Plan have also been saved following the adoption of the Core Strategy. The following saved policies are relevant to this application:

- Policy G/D/1 – Defined Urban Area
- Policy G/S/1 – Heywood Town Centre
- Policy S/4 – Secondary and Central Shopping Areas

4.6. Within the 'Guidelines & Standards for Hot Food Takeaway Uses' (April 2015, updated February 2017), the following policies are relevant.

- Policy HF2 - Extraction of odours and noise abatement
- Policy HF3 - Appropriate concentrations of hot food takeaways and clustering



/5 PLANNING POLICY ASSESEMENT

Principle of Development

- 5.1. As noted above, the site is designated within the Heywood Secondary Shopping Area under saved Policy UDP S/4. These areas are the prime retail location of town, where only development of (or change of use to) shops, food and drink outlets and financial and professional services will be permitted.
- 5.2. Core Strategy Policy E1 seeks to protect the retail function of secondary shop frontages, although it is recognised that some non-retail uses would complement the shopping role of the Town Centre. Core Strategy Policy C6 sets out that the Council will not allow the over concentration of takeaway food premises where they may impact adversely on the amenity of residents and/or encourage unhealthy eating habits.
- 5.3. In response to the concerns of the potential impact that hot food takeaways may have on amenity standards and environmental quality, the Council adopted a Supplementary Planning Document, 'Guidelines & Standards for Hot Food Takeaway' ('the SPD'). To ensure the shopping areas are diverse and balanced, in accordance with Policy HF3 of the SPD, applications for hot food takeaways uses should not normally be supported where a proposal would result in

"ii. More than 10% of the total ground floor units within a defined Secondary or Central Shopping Area being hot food takeaways"

- 5.4. Within the previously refused application (Ref:21/01281/FUL), the first reason for refusal related to the addition of another hot food takeaway conflicting within the above 10% threshold. More specifically, the Council stated that the current Hot Food Takeaway uses within this defined SSA currently stood at 9.67%. Furthermore, should the additional Hot Food Takeaway have been approved, the concentration would have risen to 13% and would therefore conflict with Policy HF3 of the SPD.
- 5.5. Whilst the applicant does not dispute the Council's conclusions above, they have advised that they have a solution which would ensure that the Hot Food Takeaway use could be approved on the site, whilst also preventing the concentration of these uses exceeding 10%. Namely, the applicant owns LA Pizza at 34 Market Place which is also located within the Secondary Shopping Area. In this respect, they have committed to closing the Hot Food



Takeaway at 34 Market Place, to allow the unit proposed within this application to open. This would ensure that the concentration of Hot Food Takeaway uses within the Secondary Shopping Area remains at 9.67%.

- 5.6. To ensure that the Council have a suitable check on the above proposal, it is considered that a pre-occupation condition could be attached to the application, advising that the application proposal at 28 Market Place should not commence operating until the unit at 34 Market Place has ceased operating as a take-away.
- 5.7. The above solution is thought to be a reasonable approach to allow the new unit to open, whilst also remaining policy compliant. The proposal in terms of principle is therefore considered acceptable and compliant with Policy E1, saved Policy S/4 and Policy HP3 the SPD.

Amenity (Noise & Disturbance, Outlook and Odour)

- 5.8. Policy DM1 of the Core Strategy states that proposals should adversely affect the amenity of residents and be compatible with surrounding land uses. Policy G9 seeks to prevent developments that would lead to an unacceptable increase in pollution.
- 5.9. Criterion (b) of UDP policy S/6 states that the development of food and drink outlets, community and cultural facilities and other uses appropriate to a district or local centre will be permitted provided that it will be compatible with surrounding land uses and will not harm local residential amenity. The Council's 'Guidelines and Standards for Hot Food Takeaway Uses Supplementary Planning Document' (SPD) 2015 contains similar objectives.
- 5.10. The second reason for refusal related to amenity and specifically concerns relating to noise and disturbance, outlook and odour. All these issues have been addressed below for the resubmission of this application.

Noise & Disturbance

- 5.11. The Council advised that the proposed opening hours and the use as a hot food takeaway would result in the intensification of activity at the site into the late evening and early morning through the coming and goings of customers and staff, and by the congregation of customers to the front unit, leading to unacceptable levels of noise and disturbance which would adversely impact the residential amenity of the occupiers of the flats above.



- 5.12. As noted within the Officers Report, *"Market Place is considered as the predominant route through Heywood Town Centre and retains a reasonable level of activity into the later hours. As such, it is recognised that the occupants of the surrounding residential properties would be accustomed to some of the activities associated with a night time economy, where Market Place already benefits from several public houses and Hot Food Takeaways."*
- 5.13. The SPD also states that, *"In some locations such as mixed commercial/residential areas that have a late night economy, local retail centres or along well-trafficked routes, it may be reasonable for residents to expect a certain level of activity near their home"*.
- 5.14. It is noted that the previous application applied for opening hours of until 1am Monday-Friday and until 3am Saturdays, Sundays and Bank Holidays. In this respect, the Council considered that these hours would result in unacceptable noise and disturbance well into the unsociable hours.
- 5.15. With the above in mind, the applicant has sought to respond the Council's concern on noise and disturbance by proposing closing hours which seek to ensure that the impact on residential amenity would be reasonably mitigated. Therefore, it is proposed that the opening hours of the Hot Food Takeaway will be 18:00pm - 12am Sunday – Thursday and until 18:00pm - 1:30am on Fridays and Saturdays. These are considered to be acceptable closing hours for this location, and consistent with other hot food takeaways within the surrounding context. It should also be noted that the site benefits from double yellow lines, which would prevent vehicles waiting to the front of the property.

Outlook

- 5.16. The outlook concern within the previous application related to the siting of the flue in front of the first-floor rear facing bedroom window, severely restricting light and outlook from this principal window and unduly impacting the amenity of the occupiers of this flat.
- 5.17. In response to the above, the flue location has been amended to sit on the side elevation of the first-floor outrigger extension, and it has also been reduced in size. The proposed flue will now sit 4.05m away from the rear bedroom window and extend marginally over the eaves of the outrigger extension. The amended location and size of the flue is considered to be suitable in allowing the light and outlook of the principal rear bedroom window to be reasonably maintained.



Odour

- 5.18. Given the close proximity of the flue to the rear bedroom window, the Council also stated that the application failed to provide convincing justification that the issue of odour could be equally well addressed.
- 5.19. As set out above, the location of the flue has now been moved to the side elevation of the outrigger extension of the property and is now located away from the bedroom window. Whilst it is noted that the flue is still located in proximity to the first floor kitchen, bathroom and bedroom windows, the new position is considered to be the most practical to allow the operation of the unit below, whilst also protecting the amenity of the residents above.
- 5.20. This application has also provided detailed specification on the flue and extraction system to ensure that the Council has sufficient information to justify that there would be no odour concerns.
- 5.21. It is also considered that a suitably worded condition could be imposed to prevent noise from the extraction system, in compliance with the requirements of the SPD.

Design

- 5.22. The design of the scheme solely relates to the internal layout of the new hot food takeaway and the proposed flue and extraction system. Policy DM1 concerns the general development requirements and includes a range of criteria for changes of use of land and buildings, extensions and alterations. This includes expecting development proposals to be of a high quality design and to take the opportunity to enhance the quality of the area.
- 5.23. The proposed internal design of the scheme is consistent with a hot food takeaway and seeks to provide sufficient space for customers to order and eat within the unit.
- 5.24. The proposed flue is located on the side elevation of the outrigger extension and is considered to be the most suitable location for an external flue to ensure amenity matters (addressed above) are mitigated. As highlighted within the Officers Report, the only accessible vantage points where the flue could be seen are along the alleyway to the north of Market Place. This was described by Officers as *"an area which does not benefit from a high standard of visual amenity by reason of an existing proliferation of ventilation and extraction equipment"*.



- 5.25. Therefore, it was considered that the previous proposed flue would not be considered inappropriate and would preserve the character and appearance of the host property and the street scene. Given that the flue has now reduced in size and it located in a less prominent location, it is considered that the same conclusions can be applied to the proposals within this application.



/6 CONCLUSIONS

- 6.1. PWA Planning are retained by Mr Mohamed Ali Shari to submit a full application for the change of use of ground floor from shop (Class E) to hot food takeaway (sui generis) and installation of externally mounted flue to rear at 28 Market Place, Heywood OL10 4NL.
- 6.2. Following the previous refusal on site, it is considered that the applicant has now sought to resolve all the issues within the reasons for refusal, including the principle of development, noise and disturbance, outlook and odour concerns. Overall, it is clear that the applicant's scheme is now compliant with the relevant policies and associated SPD.
- 6.3. In conclusion, for all these reasons it is considered that planning permission for the proposed development should be granted and the application is commended to the authority.



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