

APPLICATION NUMBER: 23/01311/FUL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/01311/FUL	Hamish Rigg	12/03/2024

Address: 28 Market Place, Heywood, Rochdale, OL10 4NL

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

PUBLICITY	Weekly list expired?	y	Site notice expired?	y
	Neighbour letters expired?	y	Press Notice expired?	y

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N/A
-----	--	-----

CONDITIONS	Pre-commencement conditions proposed?	Y
	Pre-commencement conditions agreed (or notification period expired)?	Y

RECOMMENDATION	Grant subject to conditions
----------------	-----------------------------

CHECKED AND SIGNED OFF BY: RK

DATE: 15/03/2024

SITE

The application relates to no.28 Market Place, a ground floor unit set amongst the northern building line on Market Place in Heywood Town Centre, as designated under saved Policy G/S/1 of the UDP. Most recently it was used as a charity shop, but ceased operations in 2018. The first floor contains a residential flat falling under Use Class C3.

The property sits towards the western end of a terrace which has developed organically and comprises properties of a variety of scale, width and detailed design. The application property includes a date stone embedded between the first floor windows dated 1896. The general pattern of development around Market Place is visible on the first edition OS map dating from 1841.

Currently, 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 runs a wide alleyway linking Bamford Road and Adelaide Street and beyond that a car parking area accessed off Longford Street.

PROPOSAL

Permission for the change of use of the ground floor from shop (Class E) to hot food takeaway (sui generis) and installation of externally mounted flue to rear of 28 Market Place Heywood. The flue would be situated adjacent to the western elevation of the rear outrigger. It would measure approx. 3.2 in height, sitting level with the eaves of the main roof and the ridge height of the out rigger.

The proposed opening hours of the Hot Food Takeaway would be 18:00pm-12:00am Sunday- Thursday, and 18:00-01:30am on Fridays and Saturdays.

The application is a resubmission of 21/01281/FUL with reduced opening hours.

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF) – July 2021

National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

SP3/H The Strategy for Heywood

S01 **Delivering a more prosperous economy**
E1 Establishing thriving town, district and local centres

SO2 **Creating successful and healthy communities**

C2	Focusing on regeneration areas and economic growth corridors / areas
C6	Improving health and well being
SO3	Improving design, image and quality of place
P3	Improving design of new development
SO4	Promoting a greener environment
G9	Reducing the impact of pollution, contamination and land instability
SO5	Improving accessibility and delivering sustainable transport
T2	Improving accessibility
Appendix 5	Schedule of Parking Standards
DM1	General development requirements
SD1	Delivering sustainable development

Unitary Development Plan (UDP):

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

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

Supplementary Planning Documents (SPD):

Guidelines & Standards for Hot Food Takeaway Uses' (April 2015, updated February 2017)
 'Guidelines and Standards for Residential Development (June 2016).

Emerging Planning Policy:

Places for Everyone

Places for Everyone is a joint development plan for 9 boroughs within Greater Manchester over the period up to 2037, and follows the Greater Manchester Spatial Framework (GMSF), which was dropped following the decision of Stockport Council to drop out of GMSF in December 2020.

The plan has been through initial phases of consultation and on 14 February 2022, was submitted to the Secretary of State for Levelling Up, Housing and Communities and was examined between November 2022 and July 2023.

Most recently the Inspectors have published a note on next steps for the examination responding to the Main Modifications as below:

'We are satisfied at this stage of the examination that all of the proposed main modifications in PMM6/GMCA12.3.3 are necessary to make the Plan sound and/or

legally compliant, and would be effective in that regard (subject to any grammatical or other minor changes that we may decide are necessary). That is, however, without prejudice to our final conclusions that we will reach following consideration of responses to the public consultation to be carried out on the main modifications (see below). Reasons for the main modifications that we do ultimately decide are necessary will be set out in our final report.'

The Inspectors go on to confirm the document updates required for publication by the Combined Authority. They confirm that unless they consider it essential to deal with substantial issues raised in representations about the proposed main modifications, or to ensure fairness, no further hearing sessions will be held after the consultation period.

A comprehensive schedule of all the main modifications, along with a revised composite version of the Plan, was published on 8 August 2023 with consultation on the modifications running from 11 October to 6 December 2023. On 14 February 2024, the Inspector's report was issued, marking the end of the examination into the plan. This report concluded that all legal requirements have been met.

All nine Places for Everyone Councils are to consider the Inspectors' recommendations and adoption of the Plan. Currently it is anticipated that these Council meetings will be held between 28 February and 20 March 2024. Subject to the PfE Councils' decisions, the PfE Plan will take effect and become part of the statutory development plan for each of the nine PfE authorities on March 21, 2024.

This site does not fall within a specific site allocation within PfE, however the plan does include specific development management policies which may be relevant in the determination of any future planning application.

As set out in Paragraph 48 of the NPPF, Local Planning Authorities may give weight to relevant policies in emerging plans, according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan with the NPPF.

Given the advanced stage of examination and the nature of the Inspectors responses received to date, the emerging policy is afforded substantial weight in the assessment set out within this report. However this is limited with consideration to the fact that inspectors have not yet issued their full report in response to the Public Examination.

RELEVANT SITE HISTORY

19/00301/FUL	Change of use of first floor from shop storage to two self-contained flats including formation of new door opening rear elevation to provide separate access to flats – Granted STC.
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 for the following:

- *An overconcentration of Hot Food Takeaways within the Heywood Town Centre Secondary Shopping Area, directly*

- conflicting with Policy HF3 of the adopted SPD 'Guidelines and Standards for Hot Food Takeaway Uses'.*
- *An unacceptable impact on residential amenity as a result of associated activity during unsociable opening hours.*

CONSULTATION RESPONSES

Highways:

No objections

Conservation:

I have no comments to make on this proposal, noting that there were no heritage concerns with the previously refused scheme.

Environmental health:

This section has no objection in principle to the proposals, we would recommend the following conditions:

- ② *The opening hours are restricted to 18:00- 12 midnight Sunday to Thursday and 18:00-01:30 Friday and Saturday.*
- ② *The ventilation system is fitted as per the submitted report.*

REPRESENTATIONS

Letters of notification were sent to surrounding properties 18/01/2024 and a publication was made in the local newspaper– no objections were received.

ANALYSIS

Principle of Development

The application site is allocated as Defined Urban Area under the Rochdale Unitary Development Plan. Saved policy G/D/1 is therefore relevant to any applications on the site and in the supporting text to this policy it is established that new development should be located in the urban area, so as to support urban regeneration and to protect the countryside.

Paragraph 90 of the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptations, by allowing them to grow and diversify in a way that can respond to rapid changes in retails and leisure industries.

Core Strategy policy E1 states that the Council will focus retail, leisure, cultural, office, residential and other development to promote the viability and vitality of all the borough's town centres to maintain them as thriving and sustainable centres and the preferred shopping and leisure destinations for people living, working and visiting the borough, further stating that the council will seek to protect and safeguard the core retail function of Primary Shopping Areas through restricting certain non-A1 retail and retail uses within Primary and Secondary Shopping Frontages, although it is recognised that some non-retail uses would complement the shopping role of the Town Centre.

The application site is also designated as a secondary shopping area under saved UDP policy S/4. These areas are predominantly in town centres with the highest concentrations of retail use. These areas are considered to be the prime retail location of the town, where only development of, or change of use to, shops, food and drink outlets and financial and professional services will be permitted.

Policy C6 of the CS, relating to the improvement of health and wellbeing, 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.

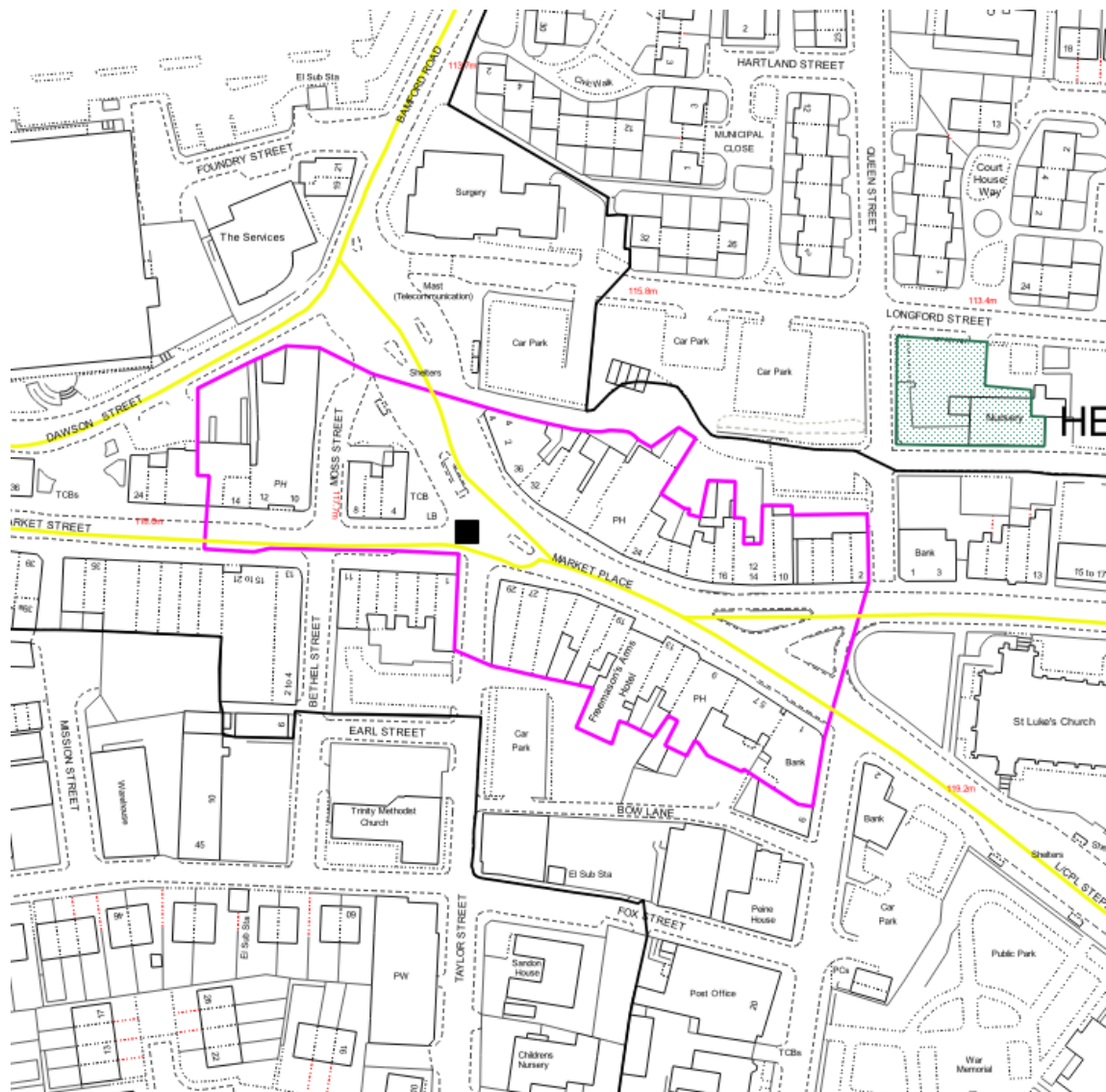
In response to concerns over the impact hot food takeaways have on amenity standards and environmental quality the Council adopted a Supplementary Planning Document, '*Guidelines & Standards for Hot Food Takeaway*' and this therefore forms a significant material consideration in the determination of the application. The SPD relates to 'A5' use, however it is acknowledged that in light of the amendments to the Use Classes Order in September 2020, 'A5' is to be taken as 'Sui Generis' Hot Food Takeaways.

The SPD acknowledges that hot food takeaways offer a popular service to the local community and have a role to play in contributing to the vitality and viability of town, district and local centres. However, an over-concentration can detract from the primary retail functions of an area and reduce their attractiveness to shoppers, especially if they do not open until late in the afternoon or early evening, and are clustered together. Consequently to ensure that 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:

- i. More than 5% of the total ground floor units within a defined Primary Shopping Area being hot food takeaways;*
- ii. More than 10% of the total ground floor units within a defined Secondary or Central Shopping Area being hot food takeaways;***
- iii. More than 20% of the total ground floor units within an area of a defined centre, outside the above areas, being hot food takeaways;*
- iv. More than two hot food takeaways being located adjacent to each other; and*
- v. Any fewer than two non-A5 units between hot food takeaways.*

Policy C6 of the adopted Core Strategy states that we 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.

The site lies within the Heywood Secondary Shopping Area as set out under saved UDP policy S/4 as shown below, covering an area of approximately 1ha.



No.	Address	Current Occupier	Use Class
1	2 Market Place	Streamline Taxi Service	E
2	4 Market Place	Crazy Pepper (HFT)	Sui Generis
3	6 Market Place	Granoo Pizza (HFT)	Sui Generis
4	8 Market Place	Hung Upp	E
5	10 Market Place	PS Accountants	E
6	12-14 Market Place	The Vapour Corner	E

7	16 Market Place	Fab HQ	E
8	18 Market Place	Turkish Magic Scissors	E
9	20 Market Place	Lily May Boutique	E
10	22 Market Place	Ryder & Dutton Estate Agents	E
11	24 Market Place	Nuna Barbershop	E
12	26 Market Place	The Olde Queen Anne	Sui Generis
13	28 Market Place	-	E
14	30 Market Place	Little Play Town	E
15	32 Market Place	That Cafe	E
16	34 Market Place	La Pizza (HFT)	Sui Generis
17	36-38 Market Place	Bury Pharmacy Ltd	E
18	1 Market Place	Big Discount Store	E
19	9 Market Place	The Kings	Sui Generis
20	11-15 Market Place	-	C2
21	17 Market Place	Freemason's Arms Hotel	Sui Generis
22	19 Market Place	The Pound World	E
23	21 Market Place	Anna's Nails	E
24	23 Market Place	Morris Property	E
25	27 Market Place	Posh Frox	E
26	29 Market Place	Yorkshire Building Society	E
27	4 Market Street	Carters Appliance Care	E
28	6 Market Street	Isherwood & Hose	E
29	8 Market Street	System Addict Ltd	E
30	10-12 Market Street	The Edwin Waugh	Sui Generis
31	14 Market Street	David Pluck	Sui Generis

The current concentration of Hot Food Takeaway uses within this defined SSA therefore stands at 9.67%. Were this application to be approved, and an additional Hot Food Takeaway unit permitted, the concentration of such uses within the SSA would stand at 13%, and would therefore conflict directly with the requirements of Policy HF3 of the adopted Supplementary Planning Document, as the overall concentration would be greater than 10% of the total ground floor units. The issue of overconcentration would be exacerbated due to all Hot Food Takeaway uses within the SSA being clustered amongst the same frontage along the northern side of Market Place.

Accordingly, during the daytime, when the units would be closed, it is considered that the vitality of Long Street centre would be harmed by the introduction of a further hot food takeaway unit and would lead to a reduction in the range of local shopping opportunities.

Nonetheless, policy HF3 was introduced to protect the primary retail function of town centres, and to prevent the proliferation of 'dead frontages' during the daytime when Hot Food Takeaways are closed. Currently the site is vacant and has been since 2018, thus it is failing to fulfil its primary retail function within the Heywood SA. Whilst an additional Hot Food Takeaway would lead to an overconcentration, it would also contribute to the local economy and provision of jobs. The change of use therefore accords with policy SO1 of the adopted CS, which aims "to deliver a more prosperous economy" by "identifying quality employment sites...to increase the number and range of jobs and employment levels".

Furthermore, following the Use Classes Amendment Order in 2020, a wider range of uses fall under class E, including funeral directors, retail warehouses, and research and development. A hot food takeaway is likely to produce more footfall than many of the potential uses which fall under Use Class E. Seeing as Policy E1 of the Core Strategy is intended to promote the viability and vitality of all the borough's town centres to maintain them as thriving and sustainable centres, a hot food takeaway is considered more in accordance than many examples within Use Class E.

Similarly, changes to Permitted Development rights in August 2021 allow for unused commercial buildings, extending to include the whole of use class E, to be converted to residential property without the need for planning permission. Such changes make the applicant property a prime target for conversion to residential use. As above, this would go towards reducing the vitality and footfall within Heywood Town Centre, thus contradicting Policy E1.

In light, of the above, whilst the existing retail use would be preferable, the potential alternative uses which fall under use class E or are available through Permitted Development, could in fact be more detrimental to the town centre. On balance, conversion to a Hot Food Takeaway would be a viable alternative and would be more in accordance with Policy E1 of the Core Strategy.

Further to the above, under policy HF1 the SPD recognises the potential negative impact that hot food takeaways can have on health and obesity, particularly amongst children (though it is noted that they are not a direct cause). As such, paragraph 4.3 states that "the establishment of new hot food takeaways around secondary schools will not normally be supported... and a 400m buffer is considered to be a reasonable distance". There are no secondary schools within 400m of the site, with the closest one approx. 1.3km away.

The matters raised above demonstrate that despite contributing to an over-concentration of takeaways, the principle for development rests on the fact that the site has been vacant since 2018 and is failing to fulfil its retail function. In this scenario, an additional hot food takeaway would not detract from the existing retail activity or further reduce the area's appeal to shoppers. Furthermore, a takeaway would promote jobs and the local economy on a site which is currently redundant. As a central thoroughfare in Heywood Town Centre, it is important that the unit is in operation, thus an additional Hot Food Takeaway is deemed acceptable in principle.

Amenity

Paragraph 135 of the National Planning Policy Framework advises that planning decisions should result in places with a high standard of amenity for existing and future users. Policy DM1 of the Core Strategy states that proposals should not adversely affect the amenity of residents and should be compatible with surrounding land uses. Policy G9 seeks to prevent developments that would lead to an unacceptable increase in pollution. 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.

The Guidelines & Standards for Hot Food Takeaway Uses SPD requires flue and extraction equipment to be acoustically attenuated to achieve a level of no more than 40 dB(A) when measured 1m from noise sensitive premises.

Permission was refused under application 21/01281/FUL, as the impact on residential amenity was considered to be unacceptable for two reasons. Firstly, the position of the flue was directly adjacent to the windows of the flat above. Given the potential high levels of noise and odour produced by the flue, the impact on residential amenity for occupants of the flat was considered harmful, particularly in the absence of a supporting ventilation strategy. Secondly, the proposed opening hours until 1am Monday-Friday and until 3am Saturdays, Sundays, and Bank Holidays, would result in unacceptable noise and disturbance well into unsociable hours through the comings and goings of customers and staff.

The applicant has sought to address the previous concerns with the flue, by setting it further away from the windows of the flat above. Nonetheless, the flue remains in relative close proximity to the windows and the potential for unacceptable levels of odour and noise remain. Regarding noise, it is considered that a suitably worded condition could be imposed to prevent noise from the extraction systems exceeding 40 dB (A), as per the SPD. Furthermore, it is noted that the existing acoustic environment is dominated by the noise of traffic along Market Place throughout the day and into the early evening, which would assist in masking the sound of the extraction equipment. In terms of odour, the applicant has provided a ventilation strategy (Fusion Hot Ltd) which identifies the need for 'High Level Odour Control' and recommends the necessary equipment, filtration system, and maintenance to ensure the odours produced are sufficiently reduced. Following consultation, the council's environmental health officer corroborated the view that the installation of a flue could be made acceptable through the use of a planning condition adhering to the provided ventilation strategy.

In addition, the applicant has proposed opening hours from 18:00pm-12:00am Sunday- Thursday, and 18:00-01:30am on Fridays and Saturdays. Whilst the change to opening hours would not entirely prevent potential noise and disturbance at unsociable hours, by closing earlier, the revised times are in line with similar nearby establishments and the expected operating hours of town centre late night economies. For example, the adjoining pub 'The Old Queen Anne' is open until 12am Sunday- Thursday, and 2am Fridays, and Saturdays, while LA Pizza is open until between 12:30 and 1:30 depending on the day. As such, the proposed opening hours would not result in an alteration to residential amenity beyond that which is currently experienced and considered acceptable in the immediate environment. Again, the council's environmental health officer corroborated the view that the proposed opening hours were acceptable and that adherence should be required by condition.

Overall, the changes made under this application ensure that the proposed change of use and development are compliant with Policies DM1 and G9 of the adopted Core Strategy and the Council's Hot Food Takeaway Uses SPD and the NPPF.

Character and appearance

Policies DM1 and P3 of the Council's adopted Core Strategy requires development proposals to adhere to high quality design and enhance the borough's identity and sense of place, by respecting context where it is positive and having regard to the scale, density, massing, height, layout, landscape, materials and access of surrounding buildings and areas in general. Paragraph 130 goes on to state that planning policies and decisions should ensure that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

External changes include the installation of an externally mounted flue to the rear of the property, attached to the western elevation of the outrigger. The flue would be set away from the first floor residential flat. It would sit flush with the maximum ridge height of the outrigger and below the eaves height of the host dwelling. Under application 21/01281/FUL, the flue exceeded the eaves height of the host dwelling by approximately 1m, and was therefore visible from public vantage points. Considering the proliferation of visible flue outlets along Market Place, this was not considered an unacceptable design feature, though exceeding the eaves height is not generally preferred. Under this application, the flue would not exceed the eaves height, making it less visible from public vantage points. The design is therefore more appropriate and would better preserve the character and appearance of the host property and the street scene. The proposals would therefore accord with the requirements of Policy DM1 and P3 of the adopted Core Strategy and the NPPF.

Highways

Policy T2 of the adopted Core Strategy seeks to improve accessibility by locating development where good access to public transport is available or can be provided and in all circumstances, prioritises the safety, accessibility and amenity of those who live or have business in the area. Policy DM1 also states that all development proposals should provide satisfactory vehicular access with adequate parking, manoeuvring, and servicing arrangements taking into account of the proposed use and location. Paragraph 111 of the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there

would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed use of the unit as a Hot Food Takeaway will not amount to a significant intensification when compared to the previous and lawful usage under Use Class E. The site is located in a sustainable town centre location which is well served by public transport and safely accessible on foot. Opportunities for parking exist within the vicinity just a short walk to the north of the site.

The Council's Highways Engineers have stated that from a highways perspective there would be no sustainable reason to object to this application and have requested no specific planning conditions.

The application therefore accords with the requirements of policy T2 of the Adopted Core Strategy and the National Planning Policy Framework.

RECOMMENDATION

Grant subject to the following conditions:

1. The development must be begun not later than three years beginning with the date of this permission.

Reason. Required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. This permission relates to the following plans:-

- Location plan: KK/1/24/R
- Site plan: KK/1/24/R
- Existing and proposed ground floor plans: KK/1/24/R
- Proposed side and rear elevations: KK/1/22
- Ventilation Strategy ,FusionHOT Ltd, 04/12/2023
- Planning Statement, PWA Planning, November 2023

and the development shall be carried out in complete accordance with these drawings hereby approved.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the saved Rochdale Unitary Development Plan, the adopted Rochdale Core Strategy and the National Planning Policy Framework.

3. The extraction system hereby permitted shall be in accordance with the type, model, and make listed detailed in Ventilation Strategy' by 'Fusion HOT Ltd' (04/12/2023). The extraction system shall be used whenever cooking odours are being produced from cooking operations in the building. In order to ensure the

optimum operation of the extraction system, all filters and equipment shall be retained and maintained thereafter and the mitigation measures detailed in the submitted report 'Ventilation Strategy' by 'Fusion HOT Ltd' (04/12/2023) shall be implemented and maintained. For the avoidance of doubt, noise levels from the flue and extraction equipment shall not exceed 40 dB(A) leq 5 minutes when measured from any sensitive receptor.

Reason: In order to safeguard the amenities of the area and to prevent nuisance arising in compliance with policies G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

4. The development hereby approved shall not be brought into use until such time as details of a grease trap and the disposal of associated fats/oils have been submitted to and approved in writing by the Local Planning Authority. The grease trap shall be installed in accordance with the approved details and retained and maintained as such thereafter and all wastewater resulting from the cleaning of the premises shall be passed through the grease trap.

Reason: To promote the sustainable drainage of the site and to prevent damage to the surrounding sewer network and in accordance with Policy G8 of the adopted Rochdale Core Strategy, the Hot Food Takeaways SPD and the National Planning Policy Framework

5. The development hereby approved shall not be brought into use until such time as the bin storage area has been made fully available for use. The refuse facilities shall be retained at all times.

Reason: To ensure the satisfactory storage of refuse containers and servicing of the premises, and to ensure the safe operation of the local highway network and in accordance with Policies T2 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

6. The development hereby approved shall not be operated outside the hours of 18:00pm-12:00am Sunday- Thursday (including bank holidays), and 18:00-01:30am on Fridays and Saturdays.

Reason: To protect the amenity of nearby occupants and to accord with policies G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

Procedure Statement

The Local Planning Authority worked proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition.

Notes for Applicant:

Report Author Hamish Rigg