

APPLICATION NUMBER: 22/01059/FUL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
22/01059/FUL	Rosalind Gralton	8 February 2023

Address: 29 Spotland Road Rochdale OL12 6PE

Proposal: Change of use from existing dwelling to Hot food takeaway (Sui Generis) on ground floor with self-contained flat (Use Class C3) on first floor and rear staircase access. Flue to rear elevation and formation of shop front to the front elevation.

PUBLICITY	Weekly list expired?	Y	Site notice expired?	N/A
	Neighbour letters expired?	Y	Press Notice expired?	N/A

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?	Y

EIA	Screening opinion completed and saved to Onbase?	N
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N

RECOMMENDATION	REFUSE
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CHECKED AND SIGNED OFF BY: LA

DATE: 06/03/23

SITE

The application site relates to a two storey end terrace property. The current use of the site is a C3 dwellinghouse. There is an existing dropped kerb on Ashworth Street to the rear which provides access into the rear garden, which is currently gated and provides in-curtilage car parking.

The property is within an area that is predominantly residential in character, including the adjoining property no. 31. The site lies to the south of Spotland Road, to the north of Ashworth Street and to the west of Julia Street.

The site is within the defined urban area. It is not within a conservation area and is not a listed building.

PROPOSAL

Planning permission is sought for the change of use from existing dwelling to Hot food takeaway (Sui Generis) on the ground floor with a self-contained one bedroom flat (Use Class C3) on first floor, which will be served by a rear staircase access. A flue is propose to be fitted to the rear elevation.

A shop front is proposed to the front elevation which involves the insertion of large full-length windows and a central door.

The proposed site plan demonstrates that the rear garden will be segregated into two distinct areas – firstly parking will be created, with one space to serve the flat, and one space to serve the take away. Secondly, the section of the garden closest to the building will be gated and will provide space for bin storage for the take away and flat.

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

SO1 - To deliver a more prosperous economy

E3 – Focusing on economic growth corridors and areas

SO2 - Creating successful and healthy communities

C2 – Focusing on regeneration areas and economic growth corridors/ areas

C6 – Improving health and wellbeing

SO3 - To improve design, image and quality of place

P3 - Improving design of new development

DM1 - General development requirements

Unitary Development Plan (UDP):

G/D/1 – Defined Urban Area

Supplementary Planning Documents (SPD):

Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016).

RELEVANT SITE HISTORY

00/D38079 - CONSERVATORY EXTENSION TO DWELLING

17/00254/FUL - Proposed change of use at ground floor from dwelling (Use Class C3) to shop (Use Class A1) with new shop front – Refused 28.04.2017

17/00678/FUL - Proposed change of use at ground floor from dwelling (Use Class C3) to shop (Use Class A1) with new shop front and the provision of a first floor flat (Use Class C3) (re-submission 17/00254/ful) – Refused 07.08.2017

CONSULTATION RESPONSES

GM Fire Service

No comments received to date

Highways And Engineering

The Council's Highways Officer's main concern regarding this application is the potential parking of customer and service vehicles on Spotland Road.

The application site is situated on the two lane approach to the busy signalised junction of Spotland Road and Sherriff Street and any parking outside the premises will have a detrimental impact on the safe operation of this junction. Although waiting or loading is restricted in this location customers are likely to park directly outside the premises especially as existing on street parking provision is remote from the premises.

The same issues would arise with the servicing of the premises as deliveries are likely to take place as close as possible with vehicles parking on Spotland Road in the two lane approach.

In conclusion the potential parking issues arising as a result of the development would mean that Highways are unlikely to support this application.

Env Health - Noise/Odours

The Environmental Health Officer has no objection in principle to the proposals, and would recommend the following conditions:

- ❑ Total cumulative noise arising from the unit and extraction system does not exceed 46 dB(A) _{leq 5} minutes when measured 1m from the façade of noise sensitive premises.
- ❑ The extract system shall be used whenever odours are being produced and all filters and equipment should be maintained to ensure optimum operation, and to ensure that the best practicable means available is taken to prevent odours affecting any odour sensitive premises.
- ❑ All patricians with residential properties will have a minimum sound attenuation level of 53 dB $D_{nT,W} + C_{tr}$, evidence of this will be submitted and approved.
- ❑ The opening hours are Monday – Friday 16:00-23:00 Saturday 16:00-00:00 (midnight) Sundays and Bank Holidays 16:00-22:00'

Network Rail

No comments received to date

REPRESENTATIONS

The application was advertised by way of neighbour notification. Two letters of representation were received. Concerns are summarised below:

Parking would only get worse, particularly on Ashworth Rd

Enough existing takeaways on Spotland Road

Increasing litter

Smell of food as existing is present, this proposal would only make it worse

Not suitable in a residential area

ANALYSIS

Principle of Development

The application site is within the Defined Urban Area under the Rochdale Unitary Development Plan. 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 92 of the NPPF states 'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which [...] enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of [...] access to healthier food.'

Similarly, Policy C6 of the Rochdale CS stated 'Improving health and wellbeing' *'We will improve people's health and wellbeing and reduce health inequalities by creating an economic, physical and social environment that promotes and supports healthy lifestyles [...] through ensuring good provision of and access to a range of food shops within or adjacent to town centres, local centres and particularly those located in or able to serve deprived areas (Policy E1), in addition to not allowing the over concentration of takeaway food premises where they may impact adversely on the amenity of residents and/or encourage unhealthy eating habits.'* As such, new hot food takeaway premises where a high concentration of hot food takeaways exist will be resisted where possible.

In April 2015, the Council adopted a Hot Food Takeaway SPD and in particular, in section 4 and 6 of this document references inappropriate densities of Hot Food Takeaways and unacceptable locations; such as nearby schools. The site is not located within a local centre or identified shopping centre within the borough, and does not have neighbouring but one adjacent units which are Hot Food Takeaways. The site is not located within 400m of a Secondary School, and therefore the principle of development for the change of use of a hot food takeaway is accepted, subject to the visual and residential amenity assessment.

In relation to the proposed C3 dwelling above the proposed Hot Food Takeaway, Core Strategy Policies E3 and C2 refer to focusing on economic growth corridors and areas of regeneration. Policy C2 states in Falinge, Spotland and Sparth, Rochdale, the Council will *'Improve the residential environment including new high quality housing where opportunities occur.'* Policy C3 echoes this by stating in the south of the borough *'we will deliver the right type of homes by ensuring an emphasis is placed on larger, family housing, including affordable housing, to widen housing choice in areas currently dominated by smaller terraced properties and flats'.*

As such, while the proposal would result in the conversion of a terraced property into an upper floor flat, this would not reduce the availability of larger, family housing. As such, while this seeks to reduce the size of the dwelling of the unit, this does not fall

contrary to the requirements of Policy C3 of the Core Strategy. The principle of the proposed first floor flat (Class C3) is acceptable.

Visual Amenity

Paragraphs 126 and 130 of the NPPF state good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further to this, Rochdale CS Policy P3 requires all new developments to adhere to high standards of design, ensuring it enhances the borough's identity and sense of place, by respecting context where it is positive.

The proposal would introduce a shopfront at ground floor level, and a staircase to the rear of the property providing access to the first floor C3 dwellinghouse. The property is located on a corner plot and the staircase would be highly visible from the corner with Julia St given the wide and open streetscene. There are no other similar features in the immediate locality. This would therefore appear out of keeping with the residential characteristics of the area.

Additionally, a large vertical flue is proposed to the rear elevation of the property. It is clear from the streetscene of Ashworth Street, that the rear elevations of dwellings are treated as the principal elevations of the properties, with low boundary treatment a key characteristic of the residential area. Given the high visibility of the site, on the corner at Julia Street, the proposed flue would only add to changing the character of the terrace from residential to commercial, and would result in a detrimental impact to the visual amenity of the terrace.

On the above basis, the principle of the development would not be acceptable in accordance with Rochdale Core Strategy Policy P3, DM1, and the NPPF.

The proposed alterations to the front elevation would remove the existing principal entry into the property and front window and replace this with a shopfront, with fascia signage and glazing across the front and side elevation of the property. While the wrap around shopfront on the front elevation would only add to altering the area from residential to commercial, the wraparound glazing and proposed fascia would be of increased prominence given it's positioning on an open corner plot of a prominent junction. While this would be a significant change to the existing residential character, it is not considered in isolation these specific changes would be considered unacceptable to the visual amenity of the area.

It is noted no details other than the location of the bin stores are provided within this submission. In the instance the application was approved, a condition would be attached to any approval that elevations and details of bin stores would be provided prior to first operation of the hot food takeaway.

Occupier Amenity

Paragraph 130 of the NPPF states *'Planning policies and decisions should ensure that developments: f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'*

The Council's 'Guidelines & Standards for Residential Development SPD' in Section 4.10 discusses Changes of Use.

'When considering applications for the change of use of a building or part of a building to residential use, the Council will take into account the impact of

residential use on the area and will also seek to secure a good standard of amenity for the future occupants. For example, residential uses may not be appropriate in certain commercial areas or above hot food take away shops as future residents could suffer from noise and smells nuisance or disturbance from activity late into the evening and early morning and this could affect the operations of the existing businesses.'

Additionally, Section 5.1 of the Council's 'Guidelines & Standards for Hot Food Takeaway Uses' SPD states:

'A balance is needed between the provision of hot food takeaways and the need to protect the amenity of residents living adjacent or near to such establishments. Compared to other uses, hot food takeaways can generate unacceptable levels of noise, vibrations and odours and it is therefore important that such uses are controlled.'

According to the application form, the proposed hours of opening are 16:00hrs to 23:00hrs Monday to Friday, 16:00hrs to 00:00hrs Saturday, and 16:00hrs to 22:00hrs Sundays and Bank Holidays. This therefore only adds to how the proposed change of use would be accustom to the night-time economy, where most disturbance to adjacent residential properties is likely.

The proposed flat is to be located directly above a hot food take away, with a shared parking area and rear amenity space shared with the takeaway. Additionally, the proposed flue to the rear elevation, would be sited directly adjacent to the rear elevation bedroom window on the property. While from a visual amenity perspective the flue would not be acceptable, the proposed flue would add to the poor quality of amenity to the occupier of the proposed flat would expect, as a result of the change of use to a ground floor takeaway.

By virtue of such close proximity to the takeaway, with the occupants of the flat sharing their outdoor amenity space with the servicing yard of the takeaway, the standard of residential amenity the occupants would not be high, and would not promote health or wellbeing. This is in direct contrast to Paragraph 130 of the NPPF, as well as contrary to guidance within the Council's Residential Development SPD.

In relation to the proposed dwelling, the bedroom is shown to be a double bed i.e. a flat that is intended to accommodate 2 people. It would measure 11.85sqm in size, a shower room would be provided and a lounge/kitchen area, measuring 21sqm. The total internal floor space would equate to 41sqm, and would fail to comply with National Space Standards in this instance.

A window to the front at first floor would serve a lounge/ kitchen and the rear bedroom, would be served by a proposed window to the rear, however it is noted that a proposed flue will be located immediately next to the window. A rear staircase is located to the rear, and would provide access into the flat via a hallway.

In conclusion, given the size and design of the first floor flat, in addition to the quality of the amenity space provided, it is concluded the proposal would result in a poor standard of amenity for the occupant, and therefore would be contrary to Policy DM1 of the Rochdale CS, and policies contained within the NPPF.

Neighbour Amenity, including noise and odour

Policy DM1 states development should not adversely affect the amenity of residents or users through visual intrusion, and should 'mitigate against any impacts due to

noise, air, dust, light and odour pollution ... where such mitigation is identified as being necessary’.

The proposed flues would project 1m above the eaves of the roof. The adjacent neighbour at No 31 Spotland Road has a single storey rear extension adjacent to the shared boundary, and therefore the proposed staircase would not have any overbearing or overshadowing impact upon adjacent properties.

The Environmental Health Officer has been consulted on the application and raises no objection in principle to the proposal, however has recommended conditions to ensure the proposed flues would not result in an unacceptable residential amenity impact by noise or vibration. In the instance the application was approved, these conditions would be secured to the decision notice. It is noted even with the proposed conditions, the development, by virtue of the use class change at ground floor, would not offer the proposed flat and its occupants a high standard of amenity.

Highways

Relating to sustainable transport, Paragraph 111 of the NPPF states ‘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.’

Policy DM1 sets out the general development requirements and establishes that proposals should demonstrate they ‘mitigate against any impacts due to noise, air, dust, light and odour pollution, traffic generation or inadequate access, where such mitigation is identified as being necessary’ and ‘provide satisfactory vehicular access with adequate parking, manoeuvring, and servicing arrangements taking into account of the proposed use and location’.

In April 2015, the Council adopted a Hot Food Takeaway SPD and in particular, the document states Core Strategy Policy DM1 is relevant to takeaways in this instance, including DM1e *‘all development proposals ...will be expected to demonstrate that they ... Provide satisfactory vehicular access with adequate parking, manoeuvring, and servicing arrangements taking into account of the proposed use and location’*.

The proposal is located on the corner plot at the busy signalled junction of Spotland Road and Julia St. To fully assess this matter, consultations have taken place with Highways officers who have stated concerns are raised regarding the parking. The proposed change of use would increase parking outside the premises, which would have a detrimental impact on the safe operation of this junction. Although waiting or loading is restricted in this location customers are likely to park directly outside the premises especially as existing on street parking provision is remote from the premises. Additionally, these same issues would arise with the servicing of the premises as deliveries are likely to take place as close as possible with vehicles parking on Spotland Road in the two lane approach.

In conclusion the potential parking issues arising as a result of the development would mean the proposal would result in a detrimental to the safe operation of the junction. As such the proposal would fail to meet the requirements of Policies DM1 and T2 of the adopted Core Strategy and the National Planning Policy Framework.

RECOMMENDATION: REFUSE for the following reasons:

1. The proposal would result in a poor standard of residential amenity for occupiers of the proposed first floor flat, by reason of the floorspace, the

proximity of a habitable room window to the flue, and the proximity of the hot food takeaway combined with the quality of residential amenity space shared with commercial servicing areas, and exposure to odour as a result. The proposal fails to meet the requirements of Policies DM1 and the National Planning Policy Framework.

2. The proposed change of use, combined with the proposed staircase and flue to the rear elevation would alter the character of the residential area to commercial and would be detrimental to the visual amenity of the area. The proposal fails to meet the requirements of Policies P3, DM1 and the National Planning Policy Framework.
3. The proposed change of use to a hot food takeaway would result in a detrimental impact to the safe operation of the signalled junction at Spotland Road, by reason of parking and servicing. As such, the application fails to meet the requirements of Policies DM1 and T2 of the adopted Core Strategy, and the National Planning Policy Framework.

Procedure Statement

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application.

Notes for Applicant:

1. For the avoidance of doubt, the Decision Notice relates to the following drawings:

Location Plan

Existing and Proposed Block Plans - 22.2830.3A

Proposed details - 22.2830.2.1C

Existing plans - 22.2830.1

Report Author Rosalind Galton