APPLICATION NUMBER: 19/00088/FUL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
19/00088/FUL	Mubeen Patel	23 April 2019

Address: 37 Gale Street Rochdale OL12 0SQ

Proposal: Change of use of residential dwelling (Class C3) to hot food takeaway (Class A5) at ground floor, 2 bed flat at first floor, installation of flue to side elevation, first floor extension to rear, new shopfront and insertion window in side elevation

PUBLICITY	**Weekly list expired?**	Y	**Site notice expired?**	N/a
	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/a
	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/a

CONDITIONS	**Pre-commencement conditions proposed?**	N
	Pre-commencement conditions agreed (or notification period expired)?	N/a

RECOMMENDATION	REFUSE

CHECKED AND SIGNED OFF BY: AT **DATE: 24.04.2019**

SITE

The application site relates to a two storey end terrace property situated in a small row of 9 other properties, on a prominent location on Gale Street. The property is finished in red brick with a slate roof. A flat roofed single storey extension and small amenity space is provided to the rear. The site is unallocated within the Rochdale Unitary Development Plan 2006 (UDP).

The majority of the properties in the area are in residential use with a mixture of house types including semi-detached properties, terraces and bungalows.

PROPOSAL

This application seeks permission to change the use of the property from a residential dwelling (C3) to a hot food takeaway (A5) at ground floor whilst the first floor would be converted into a 2 bed flat.

The takeaway use would include the installation of a flue which would be boxed internally and rise through the hipped roof. The flue would rise 1.1m above the roof slope and would measure 0.6m in diameter. A new shopfront would be provided which would see the replacement of the existing front window with a larger window opening and door. An existing window in the ground floor side elevation of the property would be bricked up.

In order to facilitate the 2 bed flat, a flat roofed first floor extension is proposed above the existing single storey ground floor extension. Its projection would be 3.8m from the rear wall of the property. The materials proposed are brick for the walls with upvc windows. The entrance into the flat would remain from the existing door in the front of the property.

A window serving a bedroom for the proposed first floor flat would be inserted on the side elevation of the property.

The submitted information proposes opening hours of 11:00 to 24:00 hours each day, including Sundays and Bank Holidays. The business would employ 3 – 5 full time staff members.

No off-street parking is proposed.

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF) – February 2019

National Planning Practice Guidance (NPPG)

Rochdale Core Strategy:

The following policies of the adopted Rochdale Core Strategy are relevant:-

SO1 To deliver a more prosperous economy
SO3 To improve design, image and quality of place
SD1 Delivering sustainable development
C6 Improving health and well being
P2 Protecting and enhancing character, landscape and heritage
P3 Improving design of new development
E1 Establishing thriving town, district and local centres
T2 Improving accessibility
G9 Reducing the impact of pollution

DM1 General development requirements

Relevant saved Rochdale Unitary Development Plan (UDP):

G/D/1 Defined Urban Area

Supplementary Planning Documents (SPD):

Hot Food Takeaways SPD

RELEVANT SITE HISTORY

77/D04760 - Kitchen And Dining Room Extension - Permitted Development.

CONSULTATION RESPONSES

Highways and Engineering

The applicant has identified no off street parking.

This is a terraced street and on street parking is in demand. The addition of a Hot Food Takeaway at this location would be out of character with the traffic currently using this highway. I expect the traffic generated would be a nuisance to neighbours and would result in parking disputes. The lack of parking is likely to mean people will park inappropriately and potentially dangerously.

We object to this proposal.

Public Protection - Noise/Odours

This section is unable to support the application; the proposed use will likely give rise to complaints of noise and odour nuisance and will cause general disturbance to existing residential properties and the proposed future residential unit. We would recommend refusal.

REPRESENTATIONS

Letters of notification were sent to surrounding neighbours. 10 objections have been received and a 35 signature petition which raise the following concerns:-

- Increase in traffic issues/accidents
- Would increase noise and disturbance, especially at night
- The application would set a precedent for commercial properties in the area
- Rubbish and fly tipping would get worse
- The back of the site is kept clean and safe, this would trap the residents because of the rubbish and parking
- The property would take further light away from No.35
- The type of food would impact on health and wellbeing in the area
- The development would impact on property value – ***Officer response*** – This is not a material planning consideration.
- Increase in odour and noise from the ventilation
- Vermin issues in the area

ANALYSIS

Principle of development

The application site is allocated as being 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.

The building to which the application relates is not located within any identified district or local centre or linear commercial area in this situation policy E1 advises the following:

We 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.

Only consider out of centre development when there are no suitable sites in, or on the edge, or well connected to, the town centre, district centres or local centres and the proposal would cause no significant overall impact on the existing centres vitality and viability;

In considering proposals for main town centre uses we will:
a. Require the application of the sequential approach, where the application site is not in an existing centre and not in accordance with an up to date development plan;
f. Support the provision of small scale shops and services to meet local needs outside centres…

It is noted that the application site is located a significant distance from a local centre identified under the UDP Proposals Map. In addition, the change of use of the ground floor of the building into a takeaway would be a small scale development that would meet the needs of the surrounding residents outside of a designated local centre. Furthermore, it is not considered that a sustainable objection could be raised on the basis that the use of the building as a hot food takeaway could have any adverse impact on the viability or vitality of any centre. Furthermore for this reason, evidence of a sequential approach to site selection is not considered as necessary in this case.

The requirements to ensure there is not an overconcentration of hot food takeaways are detailed in the SPD' Guidelines and Standards for Hot Food Takeaway Uses' as:

> 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.

As the site is not located in any designated centre only points iv and v (above) are applicable. The proposed change to a hot food takeaway at 37 Gale Street would not breach the requirements of either of these points; consequently the proposal would not result in an over-concentration of hot food takeaways in this area. The site is also not located within 400 metres of a secondary school and so does not breach the requirements of the SPD on this matter.

The change of use to a hot food takeaway is therefore considered acceptable in principle. However, further material considerations, as outlined below, must be taken into account, including the impact of the scheme on the visual amenity of the area, the impact on neighbouring occupiers and the surrounding highway network.

Residential amenity and impact on environment

Policy DM1 of the Rochdale Core Strategy 2016 requires that all development proposals, including change of use, should demonstrate that they are compatible with surrounding land uses and that any impacts due to noise, air, dust, light and odour pollution are mitigated. Similarly Policy G9 seeks to ensure that development does not lead to increased pollution including noise and odour. The Council's Guidelines and Standards for Hot Food Takeaway Uses Supplementary Planning Document (SPD) 2015 contain similar objectives.

Takeaway

The application site is located within a terraced row in a close knit residential area with a 2 bed residential flat proposed at first floor level above the takeaway.

It is considered that the proposal would increase the potential for disturbance from noise to the neighbouring residential properties. The noise generated associated with the use and cooking of food, and outside the premises from the extraction flue and comings and goings, would have a detrimental impact to the amenity of adjoining and nearby residents during the evening and night when residents have a right to enjoy a quieter period.

Although it is accepted that Gale Street is a busy vehicular and pedestrian route, the living conditions of residents of neighbouring dwellings and the proposed first floor flat need to be safeguarded, particularly during the night. It should be acknowledged that traffic along Gale Street during the evening is quieter. Local residents are likely to value a degree of peace and quiet at night after the noise and disturbance that is experienced during the day and early evening. Therefore the opening hours proposed would give rise to significant noise nuisance to residents in the evening and night when this area is generally quieter.

Furthermore, hot food takeaways often give rise to cooking smells that can be harmful to the living conditions of neighbours. The proposal includes the provision of an extraction flue to the side of the building. The submitted plans illustrate the flue would be boxed internally and rise through the bedroom area of the first floor flat and rise 1.1m above the roof slope externally. It is therefore considered that the audible noise created in the bedroom by the flue would compromise the amenity of the future occupiers. Also, the location of the takeaway within a dense residential area would give rise to complaints of nuisance and general disturbance arising from noise and odour through cooking smells. When the rooflights and windows in neighbouring properties are open, particularly in the summer months, it is considered that the noise and odour would cause significant harm to the amenity of the neighbouring occupiers.

In addition, the arrival and departure of customers on foot and by car and the congregating of customers outside the premises as orders are cooked all have the potential for generating noise and disturbance through the shutting of car doors, the starting of engines and the talk and shouts of customers. These activities, including the activity associated with the cooking of food and disposal of waste into the evening and night, are likely to conflict with the desire of those living nearby for some peace and quiet at the late hours in the early morning.

Comments have been received from the Council's Public Protection (Noise) Service, who object to the proposals as additional noise and disturbance would likely give rise to complaints from neighbouring residential properties.

Given the details, it is considered that the proposed takeaway would lead to an unacceptable level of noise and odour pollution. There would be an increase the comings and goings from the property including into the evenings and night when residents might expect a degree of peace and quiet, which would cause harm to the living conditions of the occupants of neighbouring dwellings and the proposed flat. The proposal would therefore be unacceptable and contrary to Policies DM1 and G9 of the adopted Core Strategy and the Council's Hot Food Takeaway Uses SPD and the NPPF.

First floor extension

Policy DM1 of the Council's Core Strategy requires all development proposals, including extensions and alterations to demonstrate that they will not have a negative impact upon the amenities of future residents and occupiers.

The residential SPD states that two storey rear extensions should not exceed 2.4 metres on attached properties. Paragraph 5.9 of the SPD states that planning permission will not normally be granted for two storey rear extensions that project beyond a 30 degree line drawn from a point 2.4 metres along the common boundary from the rear elevation of the adjoining or adjacent dwellings.

The property as existing has a flat roofed single storey extension to the rear which projects out by 3.8m; the proposed first floor extension would be constructed above this extension and would also include a flat roof. Given the projection, the proposed extension would exceed the guidance contained within the SPD in relation to two storey rear extensions by over 1.4 metres. Therefore, the proposed extension, by reason of its projection and height positioned along the western boundary would have an overbearing impact on the ground and first floor habitable room windows of 35 Gale Street, resulting in a loss of light and outlook, to the detriment of the amenity of the occupiers of this dwelling.

The plans show a new window serving a bedroom would be inserted in the side elevation of the property at first floor level. Given the outlook which would be onto the front garden areas of the adjacent properties No's 39 and 41 Gale Street, it is not considered to result in a significant loss of amenity for the neighbouring occupiers.

Given the details above, the proposal is contrary to Policy DM1 of the Rochdale Core Strategy, the Council's adopted Supplementary Planning Document 'Guidelines and Standards for Residential Development' and the requirements of the National Planning Policy Framework where the proposal would have a negative impact upon the amenities of existing residents and neighbouring occupiers.

Visual Amenity

Policies DM1 and P3 of the Council's Core Strategy (2016) require all development proposals, including extensions and alterations to demonstrate that they are of high quality design and take the opportunity to enhance the quality of the area.

Shopfront

The proposed shopfront is considered to be broadly acceptable in form and proportions, although if the application were to be recommended for approval a condition requiring submission and approval of full materials detailing including

window and door framework would be recommended to ensure a satisfactory standard of design and visual appearance.

Flue

The submitted plans show the installation of a large extraction flue which would rise through the side roof plain by 1.1 metres. The details show the colour finish would be slate green and constructed of steel. Although the external colour of the flue has been chosen to blend into the slate roof, by reason of its size, bulk and prominent position on an end terrace property would result in the introduction of a conspicuous and incongruous feature along Gale Street. This would be readily apparent along this highway and from a number of neighbouring residential properties.

First floor extension

The scheme proposes to create a large first floor flat-roofed extension for the property which is considered to fail to represent a good standard of design. Although sited to the rear of the dwelling and where a single storey flat roofed extension exists, the design and appearance of the structure would not improve nor have a neutral impact on the visual amenities and characteristics of the area, as such the flat roofed extension is considered to be incongruous and would not improve the visual amenity of the property or the surrounding area.

As such, the proposed flue and flat roofed extension would both have harmful effects on the residential character and appearance of the area. The proposal would therefore conflict with Policies DM1 and P3 of the adopted Rochdale Core Strategy, the Council's adopted Supplementary Planning Document 'Guidelines and Standards for Residential Development' and the National Planning Policy Framework in relation to its design.

Waste Disposal/Littering

The proposed floor plans submitted show a timber bin enclosure to the side of the property, however the area shown is outside of the site edged red and outside of the applicants control. Nevertheless, enough bin storage space would be retained in the yard area to the rear for each of the proposed uses.

However, it is noted that the occupants of the first floor flat would have to leave through the front door of the property, walk around to the rear into the gated alleyway and then in through the back to dispose of their waste in their dedicated bins. It is not considered that this is an acceptable proposal as it would lead to significant difficulties in disposing of residential waste, especially in the dark winter months when it would not be desirable to enter the alleyway and then through a gate to dispose of waste. Furthermore, that the yard would be shared with the hot food takeaway use would not be satisfactory, especially as many hot food takeaway uses operate with the rear door open for kitchen cooling. As such, the proposal is not considered to be satisfactory in terms of domestic waste disposal and is as such contrary to the relevant parts of Core Strategy policy DM1, the Supplementary Planning Document ‘Guidelines and Standards for Residential Development’ (2016) and the requirements of the National Planning Policy Framework.

Highways and Parking

Policy T2 of the Core Strategy acknowledges that development that offers greater access for all forms of travel will assist the borough's continuous improvement to becoming more sustainable, healthier, greener and prosperous. Development and infrastructure proposal are required to satisfy the Council’s accessibility hierarchy and in all circumstances, the safety, accessibility and amenity of those who live or

have business in the area will have priority, while providing reliable journey times for those travelling through.

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

In assessing the proposal, consultation has been carried out with the Council's Highways Officer who states that 'the applicant has identified no off street parking. This is a terraced street and on street parking is in demand. The addition of a Hot Food Takeaway at this location would be out of character with the traffic currently using this highway. I expect the traffic generated would be a nuisance to neighbours and would result in parking disputes. The lack of parking is likely to mean people will park inappropriately and potentially dangerously'.

Although no parking has been provided as part of this proposal and where on street parking is in demand given the terraced properties within the street, it is considered most of the customers of the takeaway would be likely to be local and would walk to the takeaway than use a car. As such the number of vehicles visiting the site would be small, and it is not therefore considered that the highways and parking impacts would be considered to be 'severe' as termed in the NPPF.

Therefore, whilst the location is not ideally suited for a hot food takeaway use in this respect, and the comments of the Council's Highways Officer are duly noted, it is not considered that a refusal reason could be substantiated on the grounds of the potential impacts of highway safety and parking given the assessment requirements of the National Planning Policy Framework.

RECOMMENDATION

Refuse for the following reasons:

1. The proposed hot food takeaway would lead to intensification in the comings and goings from the property, including in the evenings and at night when residents might expect a degree of peace and quiet. The increased noise and disturbance that would arise from such activity which would cause harm to the living conditions of the occupants of neighbouring residential dwellings, including the proposed residential accommodation at first floor level. The proposal would therefore conflict with adopted Rochdale Core Strategy Policies DM1 and G9 and the Council's Hot Food Takeaway Uses SPD, which aim amongst other things to protect residential amenity. The proposal would also be in conflict with the National Planning Policy Framework.

2. The proposed flue, by reason of it's siting in close proximity to the accommodation at first floor level and to residential properties, would give rise to noise and odour nuisance that would cause harm to the living conditions of the occupants of neighbouring residential dwellings, including the occupants of the proposed residential accommodation at first floor level. In addition, the size, height, appearance and prominent raised position of the flue on the property would result in a conspicuous and incongruous feature that would have a harmful effect on the residential character and appearance of the area. The proposal would therefore conflict with adopted Rochdale Core Strategy Policies DM1 and G9 and the Council's Hot Food Takeaway Uses SPD, which aim amongst other things to protect residential and visual amenity. The proposal would also be in conflict with the National Planning Policy Framework.

3. The proposed first-floor flat roofed rear extension would appear as an incongruous addition to the property which would detract from its character and be detrimental to visual amenity. As such, the proposed development fails to demonstrate high quality design and does not enhance the quality of the area. The development is therefore contrary to Policies DM1 and P3 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

4. The proposed first floor extension, due to its positioning, projection, scale and mass would have an unacceptable impact on the amenity of the occupiers of No. 35 Gale Street, due to a significant loss of light and outlook from the habitable rear elevation windows at ground and first floor levels. As such, the proposal fails to comply with the guidance contained within the Council's Supplementary Planning Document 'Guidelines and Standards for Residential Development' (2016) and is contrary to policies DM1 and P3 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

5. Due to the lack of private amenity space available, inadequate provision would exist for the disposal of domestic waste from the proposed first floor flat. As such the proposal is contrary to the relevant parts of policy DM1 of the adopted Rochdale Core Strategy, the Council's Supplementary Planning Document 'Guidelines and Standards for Residential Development' (2016) 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:

INFORMATIVE:
For the avoidance of doubt, this Decision Notice relates to the following drawings:-

- Site Location Plan, Scale 1:1250
- Existing scheme drawings, drawing no: 18.1774.1
- Proposed scheme, drawing no: 18.1774.2A

Report Author Mubeen Patel