

## **Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory & Appeals Committee to be held on 19 November 2020**

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### **Subject:**

This application (20/03847/FUL) is for the change of use of 501 Great Horton Road from a Class E shop to a *sui generis* hot food takeaway.

### **Summary statement:**

This application is made in response to a previously refused one for a similar proposal. In this application, the flat at first floor level is removed, instead a staff room is to be formed at first floor. The external flue has also been removed in response to previous reasons for refusal.

The site is located within an established District Centre, and so although the property does sit within walking distance of several youth facilities and schools, the Sui Generis use is considered acceptable. The Hot Food Takeaways SPD states that properties within an allocated town or district centre are exempt from the 400m rule. The location is well connected and easily accessible to potential customers.

This application is considered to address the issues raised as part of the previous refusal, and is therefore recommended for approval subject to conditions.

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### **Portfolio:**

**Regeneration, Planning and Transport**

### **Overview & Scrutiny Area:**

**Regeneration and Economy**

**1. SUMMARY**

This application (20/03847/FUL) is for the change of use of 501 Great Horton Road from a Class E to a *sui generis* hot food takeaway.

**2. BACKGROUND**

Attached as Appendix 1 is a copy of the Officer's Report which identifies the material considerations of the proposal.

**3. OTHER CONSIDERATIONS**

Not applicable.

**4. FINANCIAL & RESOURCE APPRAISAL**

There are no financial implications for the Council arising from this application. The proposal is not liable for Community Infrastructure Levy.

**5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

No implications.

**6. LEGAL APPRAISAL**

The determination of the application is within the Council's powers as the Local Planning Authority.

**7. OTHER IMPLICATIONS**

**7.1 EQUALITY & DIVERSITY**

Equality Act 2010, Section 149 - In the assessment of this proposal, due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups.

**7.2 SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications.

**7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are not considered to be any significant greenhouse gas emissions impacts caused by the proposed development.

**7.4 COMMUNITY SAFETY IMPLICATIONS**

The Community Safety Implications of the proposed development are considered in Appendix 1.

**7.5 HUMAN RIGHTS ACT**

Article 6 – right to a fair and public hearing. The Council must ensure that it has taken into account the views of all those who have an interest in, or whom may be affected by the proposal. This is incorporated within the report attached as Appendix 1.

**7.6 TRADE UNION**

Not applicable.

**7.7 WARD IMPLICATIONS**

There are no ward implications posed by this development.

**7.8 IMPLICATIONS FOR CORPORATE PARENTING**

None.

**7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

No privacy impact assessment was undertaken, due to the nature of the proposal.

**8. NOT FOR PUBLICATION DOCUMENTS**

There are no 'not for publication' documents.

**9. OPTIONS**

This Committee has the authority to approve or refuse this development. As officers have recommended approval, should Members wish to refuse the application reasons for refusal must be given.

**10. RECOMMENDATIONS**

It is recommended that the Committee accept the recommendation of approval within the report attached as Appendix 1.

**11. APPENDICES**

Appendix 1 – Planning Officer's Report.

**12. BACKGROUND DOCUMENTS**

National Planning Policy Framework

The Core Strategy Development Plan Document;

The Replacement Unitary Development Plan for Bradford District



**Appendix 1**

**Date: 19 November 2020**  
**Ward: GREAT HORTON (WARD 11)**  
**Recommendation:**  
**TO GRANT PLANNING PERMISSION**  
**APPLICATION WITH TWO PETITIONS**

**Application Number:**  
20/03847/FUL

**Type of Application/Proposal and Address:**

This is a full planning application for the change of use of 501 Great Horton Road from a Class E shop to a *sui generis* takeaway.

**Applicant:**

Mr Anwar Abdul Rehman

**Agent:**

A1 Cad Design- Mr Amjid Mohammed

**Site Description:**

The applicant property is a mid-terraced property constructed in stone under a stone slate roof. The site is located on Great Horton Road, which is a busy highway known as a main route into and out of the city centre. The property sits within a uniform row of terraces with varying uses, but it is mostly a commercial area, with flats on the first floor of some businesses here. Immediately to the rear are commercial properties including a working men's club and there is a residential area beyond this continuing along Southfield Lane.

**Relevant Site History:**

16/07554/FUL- Change of use from shop to taxi telephone booking office- Refused- 09.11.2016 (harm to residential amenity due to 24hr operation; harm to highway safety due to increased parking and movement of vehicles)

20/01934/FUL- Change of use from (A1) shop to hot food takeaway (A5)- Refused- 07.08.2020 (harm to visual amenity/character of conservation area by reason of a large external flue; harm to residential amenity of upper floor flat; harm to residential amenity due to inclusion of link between ground floor takeaway and first floor residential use.)

**The National Planning Policy Framework (NPPF):**

The NPPF is a material planning consideration on any development proposal. The NPPF highlights the fact that the purpose of the planning system is to contribute to the achievement of sustainable development and that there is a presumption in favour of sustainable development, which can deliver:-

- i) Planning for prosperity (an economic role) - by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;

- ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

As such the NPPF suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

### **Local Plan for Bradford:**

The Core Strategy for Bradford was adopted on 18 July 2017 though some of the policies contained within the preceding Replacement Unitary Development Plan (RUDP), saved for the purposes of formulating the Local Plan for Bradford, remain applicable until adoption of Allocations and Area Action Plan development plan documents. The site is within a District Centre and the Great Horton Conservation Area on the RUDP.

### **Core Strategy Policies**

DS1- Achieving good design  
DS3- Urban Character  
DS4- Streets and Movement  
DS5- Safe and Inclusive places  
EN3- Historic environment  
EN8- Environmental Protection Policy  
TR2- Parking Standards

### **Other Policies**

Hot Food Takeaways Supplementary Planning Document

### **Publicity and Number of Representations:**

The application was publicised with a site notice, a press advertisement and neighbour notification letters to adjoining properties. Three objection comments including one from a Ward Councillor, a petition against the proposal and a petition in support of the development have been received.

### **Summary of Representations Received:**

- Lack of parking for the takeaway.
- Proposed development would lead to an increase in litter and therefore vermin infestations.
- Concerns that property boundaries have not been accurately depicted and does not show the rear entrance doors to the adjacent unit.
- There are existing food outlets within walking distance.
- Proposal will create excess noise due to extractor fans and extra traffic.
- The upper floor is an occupied residential unit.

The petition against the proposal gained 13 signatures.

The petition in support of the proposal gained 7 signatures and notes that the applicant is a good neighbour and includes provision of a flue at the rear and a bin.

**Consultations:**

Environmental Health - Concerned regarding the potential noise impact on neighbouring residential properties and requested that the agent submitted a noise report. - it is noted that the extraction details were changed in response to this comment, however some concern still remains in regard to flanking transmission.

Design & Conservation - Following the removal of the external flue, the proposal would have limited further impact on the character and setting of the conservation area.

**Summary of Main Issues:**

1. Principle of development
2. Impact on visual amenity
3. Impact on the conservation area
4. Impact on the amenity of neighbouring properties
5. Highway Safety
6. Other matters raised in representations

**Appraisal:**

**1. Principle of development**

This application is made in response to a previously refused one for a similar proposal. In this application, the flat at first floor level is removed, instead a staff room is to be formed at first floor. The external flue has also been removed in response to previous reasons for refusal.

The site is located within an established District Centre, and so although the property does sit within walking distance of several youth facilities and schools, the hot food takeaway use is considered acceptable. The Hot Food Takeaways SPD states that properties within an allocated town or district centre are exempt from the 400m rule. The location is well connected and easily accessible to potential customers.

Subject to an assessment against the relevant planning policies and legislation, there is no objection to the proposal in principle. It is noted that this proposed use would apply to the ground floor of the property only, the first floor would form a staff room ancillary to the hot food takeaway use. A condition to that effect can be imposed on any approval of this planning application.

**2. Impact on visual amenity**

There will be no changes to the principal elevation of this property other than the signage, which is to be dealt with under a separate application for advertisement consent.

Initially an external flue was proposed again, however following discussions with the agent, this has been removed. Instead a small extraction grill is proposed on the rear elevation. This is much more acceptable in terms of visual amenity. The rear elevation of the property is visible from public vantage points, and therefore it is important that any extraction units are appropriately scaled in relation to the existing property. The external roller shutters on the premises are existing and appear to have been installed many years ago.

Provided that this grill is installed in accordance with the submitted information, there is no concern that it would be detrimental to visual amenity. There is no conflict with policies DS1 or DS3 of the Core Strategy DPD.

### **3. Impact on the conservation area**

The site is located within the Great Horton Conservation Area. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development with respect to any buildings or land within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The property itself is not listed, but it is within close proximity to several listed buildings, including 505-513 Great Horton Road. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

This stretch of Great Horton Road does contain a variety of uses, and therefore it is unlikely that the change of use from this property to a hot food takeaway will have any harmful impact on the overall character of the conservation area.

Revised drawings have been received which remove the external flue from the rear elevation of the property and replace it with a small grille thus reducing the visual impact of the proposal.

The conservation officer has requested that the extractor unit is painted in a dark matt colour in order to limit the impact which it would have on the wider conservation area. They also remind the applicant further permission would be required for the installation of additional security features.

The revised proposal would have limited further impact on the character and appearance of the Great Horton Conservation Area or on the setting of nearby listed buildings. The application is considered to adhere to Core Strategy DPD policy EN3.

### **4. Impact on the amenity of neighbouring properties**

At ground floor level, there are commercial properties which adjoin the applicant property to either side. The proposed takeaway use is not considered to have any detrimental impact on the amenity of these properties due to the difference in opening hours and the nature of the uses.

Previously there was concern regarding the proposed residential use at first floor level, however this has been removed in this application. Instead, only a staff room would be at first floor level. As this is to be ancillary to the takeaway use at ground floor level, there is no concern that there would be any adverse impact on the amenity of this first floor. An objection to the scheme notes that the first floor residential unit is currently occupied and to remove doubt as to the terms of this permission a condition requiring the upper floors of the building to be used as ancillary storage and staff facilities could be attached to any approval of this application.

Proposed operation hours of between 12 noon and 11pm are also considered to be acceptable given the location of the site within an established District Centre. It is noted that recent changes to the Use Class Order have placed former A1 retail units and A3 restaurants within the same Class E use class. This means that it is now possible for this, and other former A1 retail units, to change to what was formerly known as A3 restaurants without the need for planning permission and without any restrictions on operating hours.

The site is location within a District Centre and fronts Great Horton Road which is busy throughout the day and night. The Council's Environmental Health Officer has raised concerns about potential harm via the transmission of vibrations and noise through the walls of the premises into the upper floor residential accommodation in the adjacent buildings. A condition which requires the submission of mitigation measures to prevent this from occurring is considered to be reasonable. Beyond this it is noted that there are strong powers within Environmental Health legislation to enforce against statutory nuisances that may occur.

Subject to conditions limiting operating hours, requiring submission of mitigation measures to tackle transmission of noise and vibrations to adjacent residential units and requiring installation of the flue in accordance with the approved details the proposal is considered to be acceptable when measured against policies DS5 and EN8 of the Core Strategy DPD.

## **5. Highway Safety**

Great Horton Road is a busy highway which lacks on street parking at some parts. In this section there are restrictions in place closest to the junction with Southfield Lane in the form of double yellow lines. Directly in front of the applicant property safety railings have been installed which do prevent vehicles mounting the kerb to park. Therefore, there is no real risk of prospective users pulling up to the business and parking dangerously near this junction as there is no possible access to the property. Vehicles would clearly have to park further up Great Horton Road or on Southfield Lane, where there on-street parking is available.

In addition to the above, the site is location within the Great Horton District Centre which has excellent access to the public transport network and is close to a large residential population meaning large amount of foot traffic in the area. The above mentioned changes to the use class order are also relevant given the possibility of changing this use to a restaurant without the need for planning permission. The parking standards provided within the Core Strategy DPD are the same for restaurants and takeaways.

As a result of the above it is not considered that this use would result in any adverse impact on highway safety. There is no conflict with policies TR2 and DS4 of the Core Strategy DPD.

## **6. Other matters raised in representations**

All planning matters which were raised in representations have been carefully considered and addressed above. In addition to this, bin storage is clearly shown on the proposed plans to the rear of the property, where a small area of hardstanding already exists. It is understood that this area is used for the storage of refuse bins by other commercial properties within this row, and therefore this is acceptable.

Concerns regarding litter are noted, however, Great Horton Road is a very busy thoroughfare with a high level of foot traffic. As such, there are bins provided for public use close to the applicant property.

An adjacent occupier has also raised concerns about land ownership and access to the rear yard. These are private matters to be resolved between the affected parties. The granting of planning permission does not override any legal rights to property. An informative advising the developer of this should be attached to any approval of this application.

### **Community Safety Implications:**

The proposal does not present any community safety implications.

### **Equality Act 2010, Section 149:**

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups. It is not however considered that any issues with regard thereto are raised in relation to consideration of this application.

### **Recommendation:**

To grant planning permission.

### **Reason(s) for Recommendation:**

This application is considered to fully address the previous reasons for refusal given. The alteration of the flue design results in no harm being brought to the conservation area, and significantly reduces any possible impact of the development on visual amenity. The removal of the flat at first floor level removes concerns which were previously raised regarding residential amenity. There are no further issues raised in regards to this application, and therefore the development is accepted.

The proposal is not considered harmful to visual amenity, residential amenity or highway safety and is therefore considered to comply with the relevant policies of the Core Strategy Development Plan Document and the National Planning Policy Framework. Approval is recommended.

**Suggested conditions:**

1. The development to which this notice relates must be begun not later than the expiration of three years beginning with the date of this notice.

Reason: To accord with the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. The development hereby approved shall only be carried out in accordance with the approved plans listed below:-

<b>Plan Type</b>	<b>Plan Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan	A1-CAD/01		03.09.2020
Proposed elevations	A1-CAD/O3	C	29.09.2020
Proposed floor plans	A1-CAD/02	C	29.09.2020

3. Prior to the premises being brought into use as a takeaway business, the extraction system must be fully installed in accordance with the submitted information and approved plans. Thereafter it will be maintained to an adequate standard of operation and retained in this form.

Reason: In the interest of visual amenity, and to accord with policies DS1, DS3 and EN3 of the Core Strategy Development Plan Document.

4. The use hereby approved shall not commence until measures to mitigate against the transmission of noise and vibrations from the approved use to residential units in the upper floors of the adjacent buildings have been fully installed in accordance with a details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the residential amenity and to comply with Policies DS5 and EN8 of the Core Strategy Development Plan Document.

5. The premises the subject of this decision shall not be open for business between the hours of 23:00 and 11:00 and no customer shall be served or otherwise make use of the premises between these hours.

Reason: In order to safeguard the amenity of nearby residents and to accord with the requirements of the Council's adopted Hot Food Takeaways Policy Supplementary Planning Document and to accord with Policies DS5 and EN8 of the Core Strategy Development Plan Document.

6. The bin storage area shall be provided before the commencement of the approved use and shall be kept available for the storage of bins for the lifetime of the development.

Reason: In the interests of visual amenity and to comply with Policies DS1, DS3 and EN3 of the Core Strategy Development Plan Document.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), The upper floors of this building shall only be used as storage and staff facilities ancillary to the main hot food takeaway use at ground floor level as shown on the approved plans and for no other purpose. Including use residential use.

Reason: In order to retain control over future changes of use in the interests of residential amenity and to comply with Policies DS5 and EN8 of the Core Strategy Development Plan Document.

**Informatives:**

Informative: This notice grants permission only for the development described in the planning decision notice and works detailed on the approved drawings. Any other external alterations that materially alter the external appearance of the building, such as the installation of external flues or extraction equipment; new windows and door openings; security shutters and other works, are likely to amount to development that would require the benefit of a separate planning permission. Further advice should be sought from the Local Planning Authority on 01274 434605 or [www.bradford.gov.uk/planning](http://www.bradford.gov.uk/planning).

Informative: The applicant should be aware that advertisements and signs are controlled under the separate provisions of the Town and Country Planning (Control of Advertisement) Regulations, 2007. Even if advertisements or signs are shown on the drawings that form part of this planning application, express consent may be needed before external signs can be lawfully displayed on the building or site. Further advice should be sought from the Local Planning Authority on 01274 434605 or [www.bradford.gov.uk/planning](http://www.bradford.gov.uk/planning).

Informative: The developer's attention is drawn to the need to ensure that the development hereby approved occurs wholly on land in the ownership of the applicant. The granting of planning permission does not override civil law rights and consent will be required to carry out works on or via neighbouring property, unless subject to the provisions of an agreement under the Party Wall Act 1996.