

# Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 16 July 2020

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## Subject:

This is a full planning application requesting permission for the change of use of the ground floor at 33 Lilycroft Road from a betting shop (*sui generis*) to a hot food takeaway (use class A5) with the installation of extraction duct and jet cowl to the rear. No changes are proposed to the residential use at first floor.

## Summary statement:

The site is located in close proximity to schools and youth facilities and proposes a use that raises a number of health concerns. The location is not within a designated Centre and is contrary to principle 2 of the Council's adopted Hot Food Takeaway SPD which seeks to minimise the negative impacts of hot food takeaways on childhood health.

The proposed use would have detrimental impacts on the amenity of residents in the unit above the proposed takeaway and is likely to result in additional noise, waste and general disturbance which are generally related to uses such as that proposed here. This is contrary to Policies DS5 and EN8 of the Core Strategy Development Plan Document and principle 4 of the Hot Food Takeaway Supplementary Planning Document

Waste storage facilities for the proposed use are inadequate and fail to demonstrate how they can be stored safely and securely within the curtilage of the site and clear of a public highway causing harm to highway safety and would impact on the ability of vehicles to move freely on the highway which is contrary to Policies DS4 and DS5 of the Core Strategy Development Plan Document.

Refusal is recommended.

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**Portfolio:**  
**Regeneration, Planning and Transport**

**Overview & Scrutiny Area:**  
**Regeneration and Economy**



## **1. SUMMARY**

This is a full planning application requesting permission for the change of use of the ground floor at 33 Lilycroft Road from a betting shop (sui generis) to hot food takeaway (use class A5) with the installation of extraction duct and jet cowl to the rear.

## **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**

N/A

## **4. FINANCIAL & RESOURCE APPRAISAL**

There are no financial implications for the Council arising from this application.

## **5. RISK MANAGEMENT & 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**

N/A

### **7.1 EQUALITY & DIVERSITY**

Section 149 of the Equality Act 2010 states that the Council must, in the exercise of its functions "have due regard to the need to eliminate conduct that is prohibited by the Act, advancing equality of opportunity between people who share a protected characteristics and people who do not share it, and fostering good relations between people who share a protected characteristic and people who do not share it. For this purpose section 149 defines "relevant protected characteristics" as including a range of characteristics including disability, race and religion. In this particular case due regard has been paid to the section 149 duty but it is not considered there are any issues in this regard relevant to this application.

### **7.2 SUSTAINABILITY IMPLICATIONS**

Sustainability implications have been assessed as part of the officer's report (Appendix 1)

### **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**

None.

**7.7 WARD IMPLICATIONS**

There no Ward implications posed by this development.

**8. NOT FOR PUBLICATION DOCUMENTS**

None.

**9. OPTIONS**

This Committee has the authority to approve or refuse this development. If Members are minded to refuse this application then reasons for refusal are proposed in the officer report (Appendix 1). If Members are minded to approve this development they should give reasons for so doing and consider whether conditions will be necessary.

**10. RECOMMENDATIONS**

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

**11. APPENDICES**

Appendix 1: Report of the Strategic Director of Place.

**12. BACKGROUND DOCUMENTS**

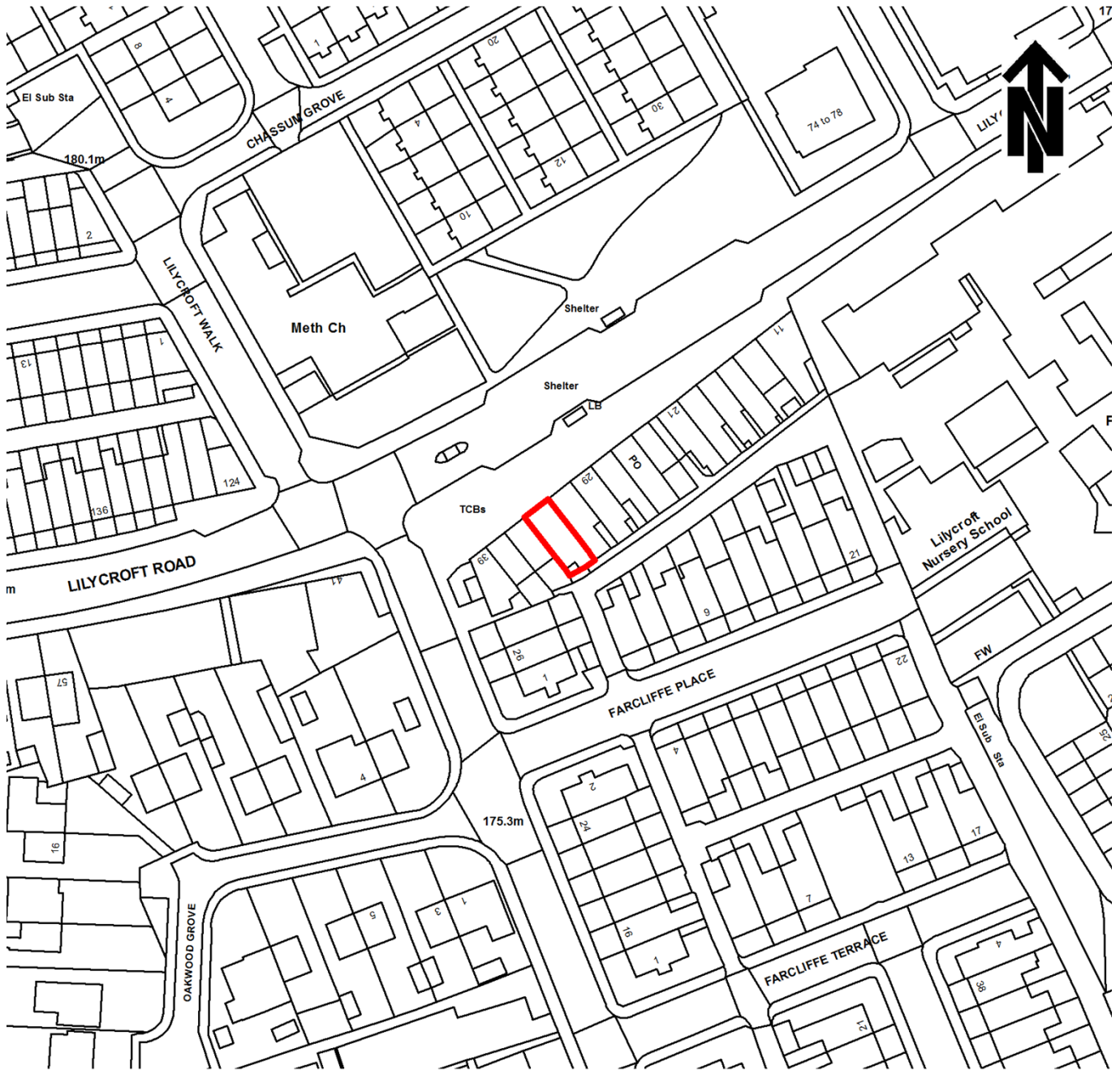
National Planning Policy Framework

The Core Strategy Development Plan Document

The Replacement Unitary Development Plan for Bradford District

The Hot Food Takeaway Supplementary Planning Document

20/01004/FUL



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**33 Lilycroft Road**  
**Bradford**  
**BD9 5AD**

## Appendix 1

**Ward:** Toller (Ward 24)  
**Recommendation:**  
**TO REFUSE PLANNING PERMISSION**

**Application Number:**  
20/01004/FUL

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

This is a full application requesting permission for the change of use of the ground floor at 33 Lilycroft Road from a betting shop (*sui generis*) to hot food takeaway (use class A5) with the installation of extraction duct and jet cowl to the rear. No changes are proposed to the residential use at first floor.

**Applicant:**  
Mr M Latif

**Agent:**  
Mr William Cartwright

**Site Description:**

Number 33 Lilycroft Road is a mid-terraced property located on a busy shopping parade which has an established but currently vacant commercial unit to the ground floor and a residential unit above. The stone fronted unit which is sandwiched between two restaurant uses (in the A3 use class) and most recently housed a betting shop (*sui generis*) of which its current permission is for.

**Relevant Site History:**

77/07725/FUL - Formation of balcony - Granted  
92/03928/FUL - Installation of roller security shutters - Granted  
97/01738/COU - Use of shop as a betting office - Granted  
97/02573/ADV - Internally illuminated fascia and projecting signs - Granted  
97/02574/FUL - Installation of new shop front - Granted  
97/03203/FUL - Installation of satellite antenna - Granted  
20/02213/FUL - Change of use from ground floor betting shop (*sui generis*) and first floor residential flat (use class C3) to restaurant/ cafe (use class A3), including installation of extraction duct and jet cowl to rear of property – Pending consideration

**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 says 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 not allocated for any specific land-use in the RUDP.

**Core Strategy Policies**

DS1 – Achieving Good Design  
DS3 – Urban Character  
DS4 – Streets for Movement  
DS5 – Safe and Inclusive Places  
EN8 – Environmental Protection  
TR2 – Parking Policy

**Other Policies**

'Hot Food Takeaways' Supplementary Planning Document (SPD)

**Parish Council:**

Not in a parish

**Publicity and Number of Representations:**

The application was advertised by individual neighbour notification letters and a site notice.

**Summary of Representations Received:**

One representation was received. This was from a Ward Councillor who is in support of the application as he stated that this was an appropriate location for this type of use and did not raise any highway, environmental health or air pollution concerns sited as part of this well-established commercial row. The representation also asks for determination by Panel/Committee if officers are minded to refuse planning permission.

**Consultations:**

Highways – The site is located amongst a well-established row of commercial properties with on street parking bays and waiting restrictions are in place along Lilycroft Road, therefore no objections are raised.

Environmental Health – No objections to the change of use. A sufficient number of bins would be required for the property. Recommend an extraction unit to be installed at the premises, with ducting discharging at least 1 metre above the ridge height of this building and any adjacent buildings. To reduce noise, the system would need to be installed and maintained as per the manufacturer's recommendation.

### **Summary of Main Issues:**

1. Principle of Development
2. Impact on Health
3. Impact on Residential Amenity
4. Impact on Visual Amenity
5. Highway Safety

### **Appraisal:**

#### **1. Principle of Development**

The application site is not within a conservation area nor is it a listed building. Located on a commercial row, it is unallocated for any specific use in the Replacement Unitary Development Plan and although commercial uses are well-established in this area, it is not within an allocated Local, District, Town or City Centre allocated.

The existing authorised use of the site is a betting shop which is a *sui generis* use and neighbouring uses comprise of a number of A1 and A3 uses with one established A5 use that has been there for many years.

Principle 2 of The Council's adopted Hot Food Takeaways SPD states that where proposals for hot food takeaways fall outside of allocated Centres, they will be resisted where the proposal will fall within 400m of the boundary of an existing primary or secondary school or youth centre facility (e.g. YMCA, after school clubs), or fall within 400m of a recreation ground or park boundary.

This proposal comes within the close proximity of a number of schools and Youth centre facilities and is within 400metres of Lister Primary School, Lilycroft Primary School, St Cuthbert's and The First Martyrs Catholic Primary School and St Phillips Primary School.

In light of the location of the site and its proximity to the aforementioned schools, the proposal is considered to be contrary to Principle 2 of the Council's adopted Hot Food Takeaway SPD, which seeks to support a healthy eating agenda, and the National Planning Policy Framework. The principle of development is therefore unacceptable.

#### **2. Impact on Health**

The NPPF states that the planning system has an overarching social objective which should support healthy communities and should enable them to live healthy lifestyles particularly where this would address an identified health need. In Bradford there are stark health inequalities across the District. Negative impacts of fast food tend to mirror clusters of deprivation seen across the city. This postcode is ranked within the top 10% of most deprived areas of the country according to data produced by the Office for National Statistics.

The Council's Hot Food Takeaways SPD, adopted in 2014, also identifies that there is a direct relationship between obesity and poor health which has been strongly linked to low quality diets and the overconsumption of "fast food". The rationale for the SPDs approach is on the basis of child obesity trends in Bradford, which are stated to be higher than the national average and an associated need to improve the quality of the food environment around schools, and parks frequented by young people, so as to influence children's food purchasing habits and potentially influencing their future diets and looks to control the proximity of new takeaways to schools. This approach is in line

with the 'social objective' of the NPPF which aims to 'support strong, vibrant and healthy communities and paragraph 91 of the NPPF which requires planning decisions to achieve 'healthy' places by enabling and supporting 'healthy lifestyles, especially where this would address local health and well-being needs'.

This particular property is not within an allocated Town, District or Local Centre and the proposed A3 hot food takeaway would be within 400 metres of various education and recreation facilities - including Lister Primary School, Lilycroft Primary School, St Cuthbert's and The First Martyrs Catholic Primary School and St Phillips Primary School. The nature of the use is such that it would have the ability to sell food which could jeopardise the approach which the SPD sets out.

The applicant has sought to overcome these issues by stating that they would welcome a condition that does not allow them to open until after schools have closed in an effort to avoid that audience and that they will include healthier grilled foods and fruit juices on the menu.

Although a condition could be applied so that the use avoids school opening hours, there are other facilities in the immediate area such as Scotchman Road playing fields and leisure facilities located in Lister's Mill that are frequented by young people outside of school hours. Furthermore, the Council cannot reasonably control the menu of a hot food takeaway and would have no long term control over changes of ownership or business models.

The proposed development is considered to be contrary to the Council's adopted Hot Food Takeaways SPD and the NPPF's overarching social objectives in the pursuit of healthier places and sustainable development.

### **3. Residential Amenity**

Conditions to restrict opening hours have already been discussed above in terms of the health impact this proposal could potentially have. The proposed takeaway use is likely to cause greater noise and general disturbance to the residents of the upper floor residential unit than the existing betting shop use. This would be from the late night opening, the coming and going of customers and delivery drivers, the sounds of cooking equipment and staff working within the kitchen. In the absence of any information to indicate how such disturbance could be mitigated for the upper floor residential unit the proposal is considered to be contrary to policies DS5 and EN8 of the Core Strategy Development Plan Document.

Notwithstanding the above, the extractor flue and associated works to the rear are not considered to raise any significant issues for neighbouring properties or the residential use above. The flue terminates above the ridge of the roof and is a sufficient distance away from residential properties. The supporting information supplied with this application provides details that are sufficient to address potential noise and vibration issues from the equipment and to minimise odours.

### **4. Visual Amenity**

No changes are proposed to the front. Minor alterations are proposed to the rear which will include the installation of a chimney stack to house an extractor flue and the removal of a satellite dish



The existing rear of the property is rendered and features an unusual design which incorporates steps up into a small rear yard and a balcony feature at first floor. The host property and neighbouring properties along this row have undergone a number of alterations over time. Considering that both neighbours have extractor systems that are externally mounted and are prominent on this rear elevation, the installation of a chimneystack to house an extractor flue on the host property, will introduce an unobtrusive feature in this location, which, finished in masonry to match the existing rear elevation, is considered to be acceptable and does not raise any visual concerns. The removal of a satellite dish currently on the rear is welcomed and will reduce some of the external clutter seen on the rear of this terraced row and visually the proposal is considered to be acceptable and accords with policies DS1 and DS3 of the Core Strategy Development Plan Document.

There is not currently any allocated bin storage for the existing use and the proposal is likely to lead to an increase in waste generation. Bins currently are left on an access track which serves the backs of residential properties on Farcliffe Place. This is not an acceptable place to store bins and the use is likely to increase the amount of waste and exacerbate the current situation. A revised red line boundary was offered by the applicant as they claim to own the neighbouring properties which would be an improvement on the current situation; however, plans have not been accepted as they did not form part of an original blue line boundary and the principle issue on health would not be addressed. If the proposal was to be given planning permission the effects on visual amenity with increased bin storage in the rear street would cause significant harm to visual amenity contrary to Policies DS1 and DS3 of the Core Strategy Development Plan Document and would not be acceptable.

### **5. Highway Safety**

The proposal does not make changes to the proposed access or on street parking arrangements seen nearby. The location benefits from good public transport connections and is both easily and safely accessed by foot. The proposed use is considered to generate a similar volume of traffic to that of its existing, and no highway safety issues are raised. The proposal is therefore considered to accord with policies DS4 and TR2 of the Core Strategy Development Plan Document and the NPPF.

### **Community Safety Implications:**

The proposal has no 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 refuse planning permission.

### **Reasons for Refusal:**

1. The proposed A5 hot food takeaway is not in a Local or District Centre. It is within 400 metres of various education and recreation facilities including Lilycroft Primary School some 50 metres away; and Scotchman Road Playing Fields. The proposal is therefore contrary to Principle 2 of the Council's adopted Hot Food Takeaway

Supplementary Planning Document, which seeks to minimise the negative impacts of hot food takeaways on childhood health by controlling the proximity of new takeaways to those education and recreation facilities. It is also contrary to Policy DS5 of the Core Strategy Development Plan Document and the social objectives of the National Planning Policy Framework.

2. The use of the premises as a hot food takeaway would be detrimental to the amenity of the residential unit above by reason of the general noise and disturbance passing upwards through the building. In the absence of any proposals or information to indicate how this harm could be mitigated the proposal is considered to be contrary to Policies DS5 and EN8 of the adopted Core Strategy Development Plan Document, and Principle 4 of the adopted Hot Food Takeaway Supplementary Planning Document.

3. Waste storage facilities for the proposed takeaway are inadequate or non-existent. The applicant has failed to demonstrate that trade waste bins can be stored safely and securely within the curtilage of the site and clear of the public highway. This would impact adversely on visual amenity contrary to Policies DS1 and DS3 of the Core Strategy Development Plan Document.