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**2018/0831**

**Applicant:** Mr Adem Aydemir

**Description:** Change of use of café to hot food takeaway and installation of fume extraction unit

**Site Address:** 14 High Street, Hoyland, Barnsley, S74 9AB

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10 Letters of representation have been received, 9 of which are objections and 1 in support of the proposal.

Councillor Shepherd objects and Cllr Franklin requests the application be considered by board

### **Site Location & Description**

The property is located within the principle shopping area of Hoyland and is situated within a row of properties occupied by a hot food takeaway, a clothing store, a travel agent and a pet food store. The site is opposite The Hoyland Centre which is occupied by the library.

### **Proposed Development**

The applicant seeks permission to change the use from an existing café (A3) to a Hot Food Takeaway (A5) with the proposed opening hours of the unit being 4pm – 11pm seven days a week. The only external alteration proposed is an extraction unit which will be to the side of the unit, set back approximately 3.1m from the front elevation and with a height to match the existing ridge line.

### **Policy Context**

Unitary Development Plan (UDP) allocation – Principle Shopping/Commercial Centre  
Local Plan allocation – Primary Shopping Area/ Primary Shopping Frontage

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

#### Core Strategy

Core Strategy Policy CSP 26 – New Development and Highway Improvement - states that all new development will be expected to be designed and built to provide safe, secure and convenient access for all road users.

Core Strategy Policy CSP 29 – Design - states that high quality development will be expected, that respects, takes advantage of and enhances the distinctive features of Barnsley. Development should enable people to gain access safely and conveniently.

Core Strategy Policy CSP 31 – Town Centres - states that support will be given to maintaining and enhancing the vitality and viability of Barnsley Town Centre and that the majority of new retail and town centre development will be directed here.

Core Strategy Policy CSP 40 – Pollution Control and Protection – states that development will be expected to demonstrate that it is not likely to result in an increase in air, surface water and groundwater, noise smell, dust or other pollution which would unacceptably affect or cause a nuisance to the surrounding environment.

#### Barnsley Unitary Development Plan adopted 2000 (Saved Policies)

Saved UDP Policy S1 – Shopping/Commercial Centres – states that all new retail development will be permitted only within the Central Shopping Area of Barnsley Town Centre and in the defined Principle Shopping and Commercial Centres. New retail developments which extend and enhance the range of goods, consumer choice and the provision of amenities and facilities available will be particularly encouraged.

Saved UDP Policy S2 – Shopping/Commercial Centres – states that retail development will be permitted within the principle Shopping and Commercial Areas.

Core Strategy Policy CSP 26 – New Development and Highway Improvement – New development will be expected to be designed and built to provide safe, secure and convenient access for all road users.

#### Supplementary Planning Documents

SPD 'Parking'

SPD 'Hot Food Takeaways'

#### Local Plan

The emerging Local Plan has now reached a very advanced stage with a consultation on main modification to the plan commencing in July 2018. The consultation follows confirmation from the Local Plan inspector that the plan is capable of being found sound. This by no means represents the Inspectors overall judgement, which will not be known until the final report is issued and the examination closes. However, it does mean increasing weight can be given to the policies contained within the document although, in accordance with paragraph 48 of the NPPF, the extent of this will depend on:

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

By virtue of the fact the policies have been tested at examination, they have been scrutinised in relation to their degree of consistency with the NPPF and it is therefore highly likely that they are sufficiently compliant. However, it will not be possible to conclude whether many of the objections have been resolved until the inspector has considered the responses to the consultation on modifications and the final report is published. The extent to which weight can be attributed to the Local Plan policies will therefore vary on a case by case basis taking into account the relevant policies and the significance of any unresolved objections.

Policies of relevance in the emerging Local Plan would be:

Policy GD1 General Development

Policy D1 High Quality Design and Place Making

Policy TC1 Town Centres

Policy TC2 Primary and Secondary Shopping Frontages

Policy Poll1 Pollution Control and Protection

### **Consultations**

Highways DC – No objections

Pollution Control – No objections

Ward Councillors – Objections on the grounds of over concentration of hot food takeaways in Hoyland centre.

### **Representations**

Neighbour notification letters were sent to surrounding neighbours. 1 letter of support has been received and 9 letters of objection. In terms of the objections the following have been raised as a concern:

- increase in antisocial behaviour
- increase in obesity
- increase in litter and odour
- parking issues
- accessing and servicing impacts
- proliferation of hot food takeaways within the town centre
- increased traffic

### **Assessment**

#### Principle of development

The change of use of the premises is considered acceptable where there is no detrimental impact on residential amenity by means of noise and disturbance, visual amenity or highways safety. The unit is located within the retail frontage where there are a mix of uses including A1, A2 and A5. The proposed use of the unit would therefore fit in with the character of the area and retain an active frontage, adding to the mix of services on offer.

#### Visual Amenity

The only external alteration proposed is the provision of an extraction duct on the side elevation of the building. Due to it being set back from the front elevation, and not projecting above the ridge of the building, it would not be highly prominent from the streetscene and as such, visual amenity would be maintained to a reasonable degree, in accordance with CSP 29.

#### Residential Amenity

The type of unit proposed is what would generally be expected within a town or district centre and so it is unlikely to have a significantly detrimental effect on existing residents. In addition the adjoining use is an existing hot food takeaway. There are no attached buildings on the eastern side with the nearest building being used as a clothes shop. The applicant has submitted details of the extraction unit which has been assessed by the Council's Regulatory Services Section who are satisfied that unit will appropriately disperse fumes into the

atmosphere and, as there are no side windows on the adjoining building, noise should also not be an issue.

The addition of a relatively small Hot Food Takeaway unit on the ground floor of the property, given the nature of the area, would not significantly reduce the residential amenity of the area or detrimentally affect the amenity of the neighbouring uses. SPD 'Hot Food Takeaways' states 'when determining planning applications, the Council will have regard to the general character of the area, including levels of commercial and vehicular activity. The presence of residential accommodation over the property or neighbouring shops, however, would not necessarily preclude a hot food takeaway use, where this is primarily a commercial area'.

As previously mentioned, the fume extraction details are positioned such that they would not have a detrimental impact on the amenity of surrounding uses, by means of odour or noise.

The proposed opening hours of 16.00 to 23.00 Monday to Sunday would be in line with similar uses with similar opening hours within the immediate area, as such; the proposed hours would be acceptable within this location.

#### Concentration

SPD 'Hot Food Takeaways' states that planning permission will only be granted for Hot Food Takeaways providing that no more than two A5 units are located adjacent to each other and there are no less than two non A5 units between groups of Hot Food Takeaways.

It is acknowledged that the adjoining unit 12 High Street results in two consecutive A5 uses however, the vacant premises to the south, 8-10 High Street do not benefit from an A5 permission and the three properties to the north, 16 to 22 High Street, are occupied by a A1 uses; therefore the proposed change of use complies with the Supplementary Planning Document in relation to concentration.

#### Schools

SPD 'Hot Food Takeaways' states that 'outside designated centre, planning permission for hot food takeaways will not be granted within 400m of a primary or secondary school or advance learning centre. The premises are situated within 400m of St Helens Catholic Primary School, however, the site is located within a designated centre and therefore the 400m buffer does not apply.

#### Highway Safety

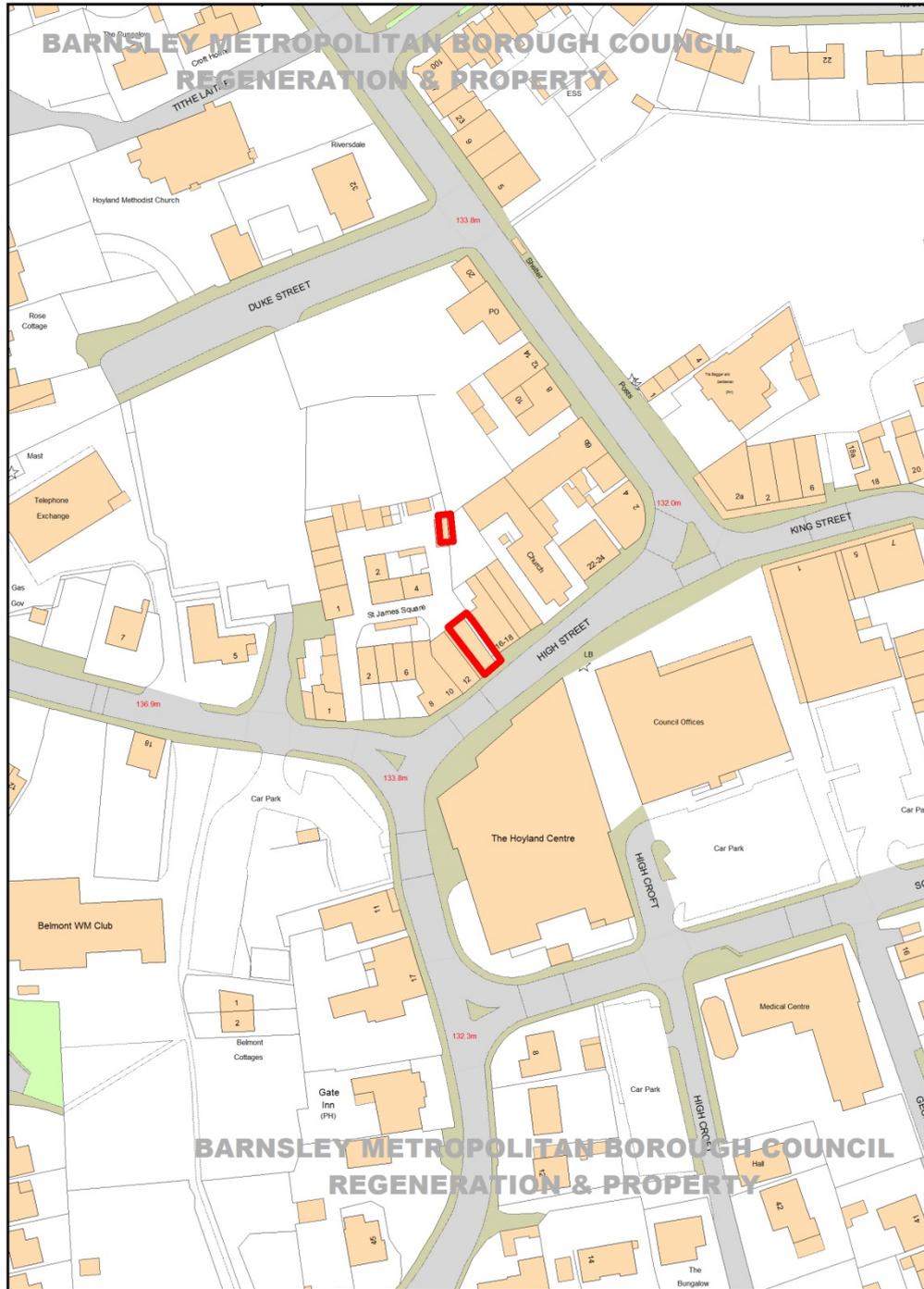
No off road parking spaces are proposed. However, the unit is located within Hoyland town centre with numerous free surface car parks and access to regular public transport. Furthermore, there are parking restrictions immediately to the front of the unit to control parking/waiting on the highway. Highways DC have raised no objection to the proposal and as such it is considered to be acceptable.

## Recommendation

**Grant** subject to conditions:

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
**Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.**
  
- 2 The development hereby approved shall be carried out strictly in accordance with the plans (Proposed Extraction Details dated 19th July 2018 and specifications provided to the Local Authority confirming the Fume Extraction System outlined in the email titled 'RE: 2018/0831 14 High Street Hoyland - Change of use from cafe to hot food takeaway' dated 13th August 2018) as approved unless required by any other conditions in this permission.  
**Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.**
  
- 3 Prior to the commencement of the use a scheme describing the methodology to be employed to control litter and minimise waste from being deposited in the street shall have been submitted to and approved in writing by the Local Planning Authority. Such scheme shall, amongst other matters, provide details of the packaging to be used, any litter bins to be provided and any signage to be displayed on the premises advising customer of the need to dispose of litter in appropriate litter bins or other facilities. Any litter bins or other facilities provided pursuant to the requirements of this condition shall be retained and maintained for the duration of the development and the use shall operate in complete accordance with the approved scheme.  
**Reason: In the interests of the visual amenity of the locality in accordance with CSP29.**

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