

**Application Recommended for Refuse
Queensgate**

FUL/2020/0326

Town and Country Planning Act 1990

Proposed mobile catering unit in the shape of a bus with takeaway and eat-in facility
Land At Rylands Street Burnley

Background:

The site is located on Colne Road within the defined development boundary as designated in Burnley's Local Plan, in which policy SP4 applies. The site is also adjacent to but not included in the defined Briercliffe Road district centre.

The area is mixed in nature with residential properties on Rylands Street, to the north of the site is Lidl and adjacent a wide range of commercial shops and other businesses.

The site has recently had retrospective approval for the use of the former garage to a carpet shop.



Ryland Street frontage



Colne Road frontage

the site

The Proposal

The application seeks consent for the siting of a double decker bus which will be modified to be used as a catering unit for takeaway and eat in. It is considered that the proposed use would be sui generis, being a mixture of sit in and takeaway food.

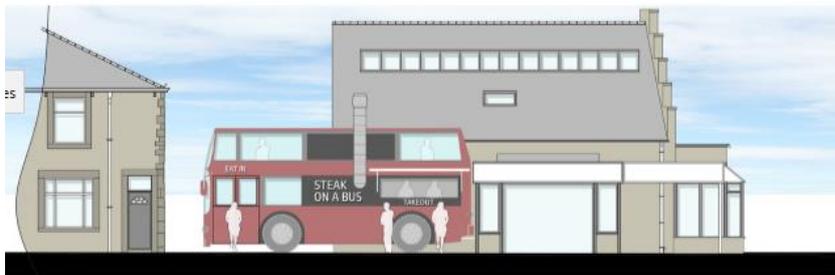
The bus would be positioned approximately 1.3m away from the gable elevation of No. 42 Rylands Street and approximately 1.6m from the existing carpet shop. The red edge of the proposal does not include the wider site, including the MOT service and A1 carpet shop. There will be an approximate set back from Rylands Street of 1.6m in which the plans show a covered canopy area, 2 waste bins and the main eat in entrance of the bus.

The bus will be 4.4m in height, meeting the 1st floor window at No. 42 Rylands Street and 9.5m in length. An extraction flue is shown to located on the front of the bus, the flue will be 3.2m in height and a total height from the ground floor level to above the bus is 5.7m. The only detail on the flue is that specialist details would be provided in accordance with the Council's EH team.

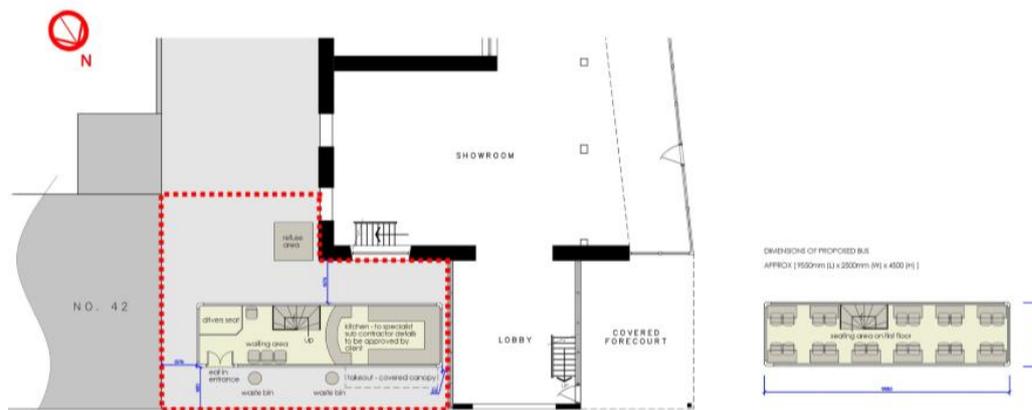
Opening hours would be:

Eat in: 13:00 – 23:00 Mon – Sat and 13:00 -22:00 on Sunday
Takeaway : 12:00 00:00 Mon – Fri and 12:00 – 23:00 Sunday

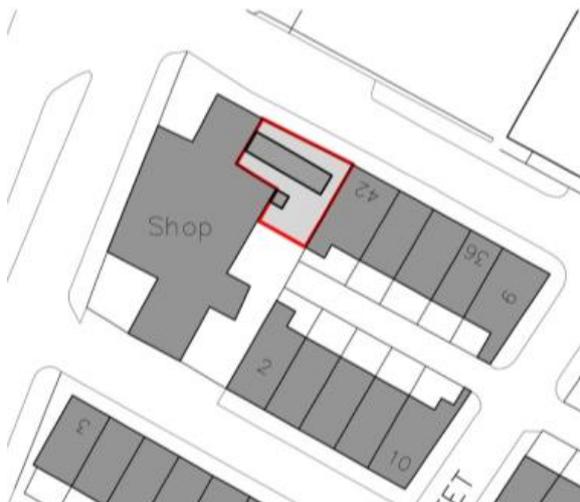
The business would employ 4 full time members of staff and 2 part time. The eat in area would sit upto 22 people. No details have been submitted for the provision of any parking for the application.



Plan 1 - extract showing the relationship of the bus with the existing carpet shop No. 42 Ryland Street



Plan 2 - extract showing the proposed layout plan of the bus in relation to the wider site



Plan 3 – extract site location plan showing the bus will be located within the existing forecourt to the rear of the current carpet shop.

Relevant Policies:

Burnley Local Plan

- SP4 – Development Strategy
- SP5 - Development Quality and Sustainability
- EMP3 – Supporting Employment Development
- TC7 – Hot Food Takeaways
- NE5 – Environmental Protection

Site History: various most relevant

COU/2019/0280 - Retrospective change of use of car sales room (sui generis) to A1 and creation of single storey extension to provide additional A1 Use Approved 27/2/20

As part of this recent application approval was granted for a new extension created on the northern elevation of the building, which will abut upto 42 Ryland Street. The extension will fill a gap in the current frontage by 11m and will be 5.2m in height.

APP/2019/0314 – retention and part change of use (A1, A2,A3) single storey side and rear extension with new roof Withdrawn

Consultation Responses:

Highways - Objection the proposed development would have an unacceptable impact upon highway safety.

The mobile catering unit as proposed is to be sited on the existing car park to the neighbouring furniture shop and would therefore remove existing car parking in this area as proposed and the footway is already frequently being used for the parking of cars thus causing an obstruction for pedestrians.

The mobile catering unit is also proposed to be sited within proximity of the road junction, between Ryland's Street and Colne Road where due to the nature of the proposal, customers arriving by car will park their vehicles near to the road junction and along Ryland Street causing congestion to the detriment of other road users. Furthermore the proposal also seeks to offer a fast food delivery service, which in turn will result in vehicles frequently traveling to and from the application site, which when combined with the other customers arriving by car, this will aid further congestion at the junction.

Environmental Health – concerns at follows:

Specific concerns in relation to this application would relate to the following areas.

1) Ventilation/Extraction of Odour;

The use hereby permitted shall not be commenced until details of the extract ventilation system and odour control equipment, including details of any external ducting and measures to control noise and vibration, have been submitted to and approved in writing by the Local Planning Authority and the equipment so approved has been installed. Such approved equipment shall thereafter be operated at all times when cooking is carried out and maintained in accordance with the manufacturer's instructions. The external ducting shall be removed when the authorised use of the premises for the sale of hot food ceases.

Reason: To safeguard the appearance of the premises and minimise the impact of cooking smells and odours

2). Provision of Toilets.

Burnley Council adopted a policy under the Local Government (Miscellaneous) Act 1976 for the provision of toilets in food premises that provide seats for customers to eat takeaway food on the premises.

The standards required is as follows;

1-25 customer seats	1 WC (shared)	1 wash basin
25 – 50 customer seats	male 1 wc	1 wash basin
	Female 1wc	1 wash basin

51 + customers seats use British Standards Guidance for toilets required in restaurants and canteens

Planning and Environmental Considerations:

Main issues

- The principle
- Impact on the amenity of neighbouring uses
- Impact on the character of the area
- Highways

The principle

Policy TC7 of Burnley's adopted local plan sets out the location of where hot food takeaway premises could be located. Whilst the site is located within the defined development boundary, the site does not meet any of the criteria under part 1 of the policy. Part 2 of the policy requires that proposals outside the main areas defined in part 1, should not physically adjoin residential properties. The proposal does not attached onto anything, although is within very close proximity to properties along Rylands Street.

Regardless of meeting part 2, the proposal still needs to meet all other relevant parts of the policy as set out below:

Policy TC7: Hot Food Takeaways

Location

- 1) Proposals for hot food takeaways will only be permitted in the following areas:
 - a) Within the areas of Secondary Frontage of Burnley Primary Shopping Area;
 - b) Within Padiham Town Centre; or
 - c) Within in a defined District Centre.
- 2) Outside of these areas hot food takeaways will normally only be permitted where the property does not physically adjoin residential properties or other sensitive uses outside of the applicant's control.
- 3) Proposals for hot food takeaways will only be permitted in the locations set out above where they satisfy other relevant policies of the Plan and the following criteria:

Clustering

- a) The proposal will not create an unacceptable concentration of similar uses in Burnley Secondary Frontage or Padiham Town Centre;

Amenity

- b) The proposal will not cause detriment to the free flow of traffic or residential amenity;

Accessibility and Parking

- c) The location of the proposal is accessible by walking, cycling and public transport;
- d) They provide or are served by adequate parking spaces;

Extraction of Odours

- e) They provide for appropriate extraction systems to effectively disperse odours.⁶⁸ Such systems must:
 - i) have minimal impact on visual amenity, including location and external finish;
 - ii) be acoustically attenuated; and
 - iii) not have an unacceptable impact on the amenity of neighbouring occupiers;

Waste

- f) Their waste provision is appropriate to the scale and type of premises; and
- g) They provide appropriately sited bins for customers to use.

Part 3a is not relevant given the site is not located within a town centre location. Highways is covered as part of b) and c) and as discussed below, the site is constrained by virtue of there being no dedicated parking area, together with the removal of parking provided for the A1 carpet shop which would be lost should this application be approved.

Part e) is discussed below. Waste issues covered under parts f) and g) would appear to have been satisfied.



Plan 4 – extract showing the extent of the Colne Road defined district centre (Policy TC6) and the application site

Whilst close to the defined district centre, the site does not fall within it and therefore in applying the policy, the proposed use is not in accordance with the adopted local plan.

Impact on residential amenity

Hot food takeaways have the potential to harm the living conditions of nearby residents by reason of the noise and odour caused by cooking inside, but also the noise and general disturbance caused by the comings and goings of customers. It is recognised there are several hot food takeaways on the western side of Colne Road, but there is a distinct change from the uses on the eastern side of Colne Road which aside from the Lidl store is predominantly residential.

The site shares common boundary with No. 42 Rylands Street, and the rest of the terraced properties which runs all the way upto Briercliffe Road. The bus would be positioned approximately 1.3m away from the gable elevation of No. 42 Rylands Street.

Whilst the plans show the bus will be set back from Rylands Street, the main entrance of the bus and the takeaway facility will have a very close relationship to the existing street and the front elevations of properties along Rylands Street. There is the potential for the area in front of the bus to form a natural space for people to congregate. Furthermore a large extraction flue is proposed on the front of the bus, and whilst details may be able to be conditioned, the close relationship of the bus and the properties means there are major concerns that odours from the bus would have a harmful effect on the amenity of properties along Rylands Street.

As the proposed operating times are upto 22:00 for takeaway and 23:00 hours for eating in, there are concerns that the use would have a detrimental impact by virtue of noise and odour that would have a harmful effect on the amenity of nearby residents contrary policies SPF5 and NE5 of Burnley's adopted local plan.

Impact on the character of the area

Policy SP5 of Burnley's adopted Local Plan seeks amongst other things that proposals will be expected to address minimum requirements appropriate to their nature and scale. Of relevance to this site is part 2) of the policy including;

- a). respect existing or locally characteristic street layouts, scale and massing*
- b). contribute positively to the public realm and avoiding unnecessary street clutter*

The area is mix use in nature and whilst other hot food takeaways are located on Colne Road, there is nothing of this nature. Whilst this is not a reason in itself to refuse, it is the increase in activity that a use like this would bring forward and the resultant impacts on the character and appearance of the area.

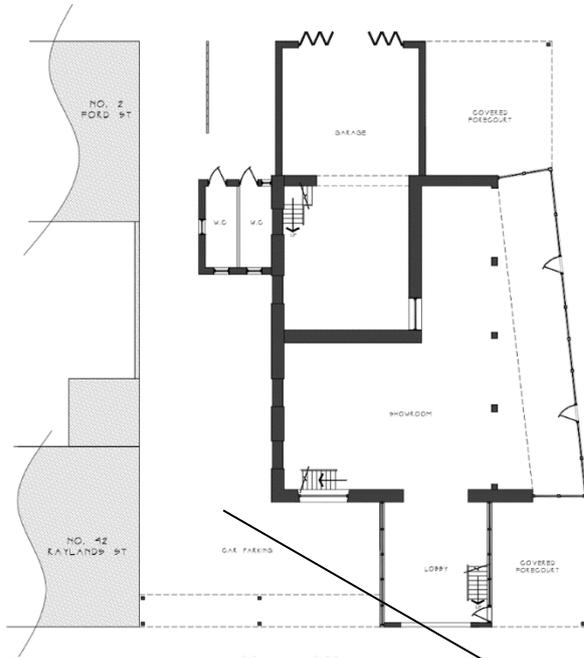
The immediate context to the site is the terraced row along Ryland Street (numbers 36 – 42), the side elevation of Lidl supermarket and the existing use of the A1 carpet shop. When travelling south along Colne Road, the site (including the carpet shop) is more visible given the open aspect of Lidl car park. Rylands Street is also very typical of terraced properties within the area, stone with slate roof. The traditional materials are also echoed in the carpet shop building and elements of Lidl. It is considered that the introduction of a stationary bus with its associated fittings; extraction flue, takeaway covered canopy area (3.5m in length), bins will have a negative impact on the existing character of the area contrary to policy SP5 of Burnley's adopted Local Plan.

Highways issues

The site is located within a sustainable location, close to existing bus routes. Parking on street within the area is pressured and there are parking restrictions along the one way Ryland Street.

The application site forms part of a wider site, and consideration needs to be taken of the conflicting uses and the number of parking spaces which are already accounted for on the site. The existing use of the carpet shop relies upon the use of the application site for parking as demonstrated by the following plan submitted as part of the recent planning application COU/2019/0280. If we were to just look at the parking requirement for the recently approved carpet shop alone (170sqm) then the required amount of parking is 4 spaces.

This proposed application would remove the ability for parking to be made available for customers of the carpet shop, putting further pressure for on street parking.



Plan Extract 5 – showing the existing site plan of the carpet shop and the use of the application site which is dedicated for parking to serve the shop

Other issues

Bin storage has been

A bin storage area has been shown to the rear of the bus and a series of bins have been shown on the area directly in front of the bus.

Recommendation:

1. The introduction of a stationary bus with its associated fittings; extraction flue, takeaway covered canopy area (3.5m in length), bins will have a negative impact on the existing character of the area contrary to policy SP5 of Burnley's adopted Local Plan.
2. The proposed use and opening hours would lead to conditions detrimental to residential amenity due to noise disturbance and cooking odours. This would be contrary to Policies TC7, SP5 and NE5 of Burnley's adopted Local Plan.
3. The proposal, by virtue of its potential detriment to highway safety arising from the lack of parking and conflict of existing users to the site and nearby residential is contrary to Policies TC7 and SP5 of the Burnley's adopted Local Plan 2018.