

Application Recommended for APPROVAL
Gawthorpe

COU/2020/0508

TOWN AND COUNTRY PLANNING ACT 1990
FULL PLANNING APPLICATION

Change of use of ground floor commercial unit (Use Class E) to Hot Food Takeaway (Use Class Sui Generis). At 88 BURNLEY ROAD, PADIHAM, LANCASHIRE, BB12 8QN

Agent: Mr Norman Nazir
Applicant: Mr Shams-UI Alam

This application is brought before Development Control Committee as objections have been received.

Background:

This application relates to the ground floor of a mid-terrace property located on the southern side of Burnley Road, within the development boundary for the urban area of Padiham. Burnley Road (A671) is a main arterial route between Burnley and Padiham. The property is a vacant commercial unit which was previously occupied by Coral betting office. The first floor of the property which is not part of this application is occupied as a residential flat.



Front Elevation



Front Elevation



Rear Elevations of the terrace block the property is part of.



Rear Elevation

Proposal:

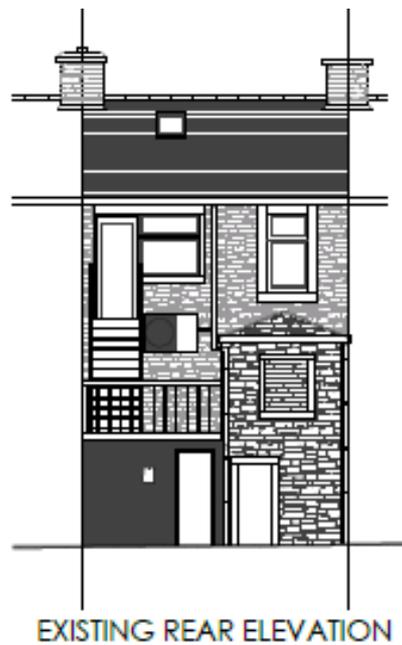
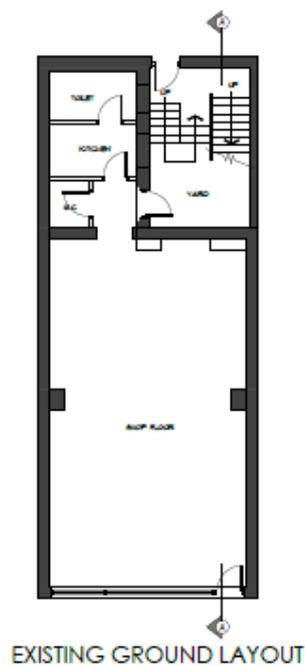
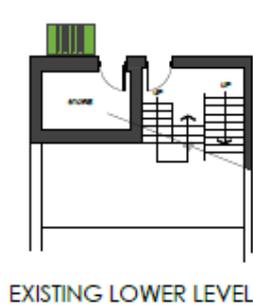
Planning permission is sought for the change of use of the ground floor commercial unit (Use Class E) to Hot Food Takeaway (Use Class Sui Generis). On the 1st September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came

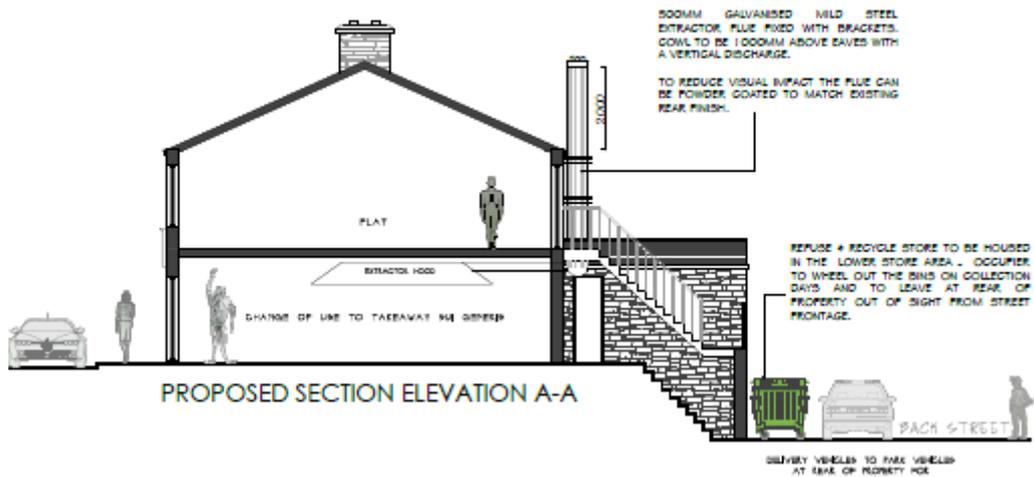
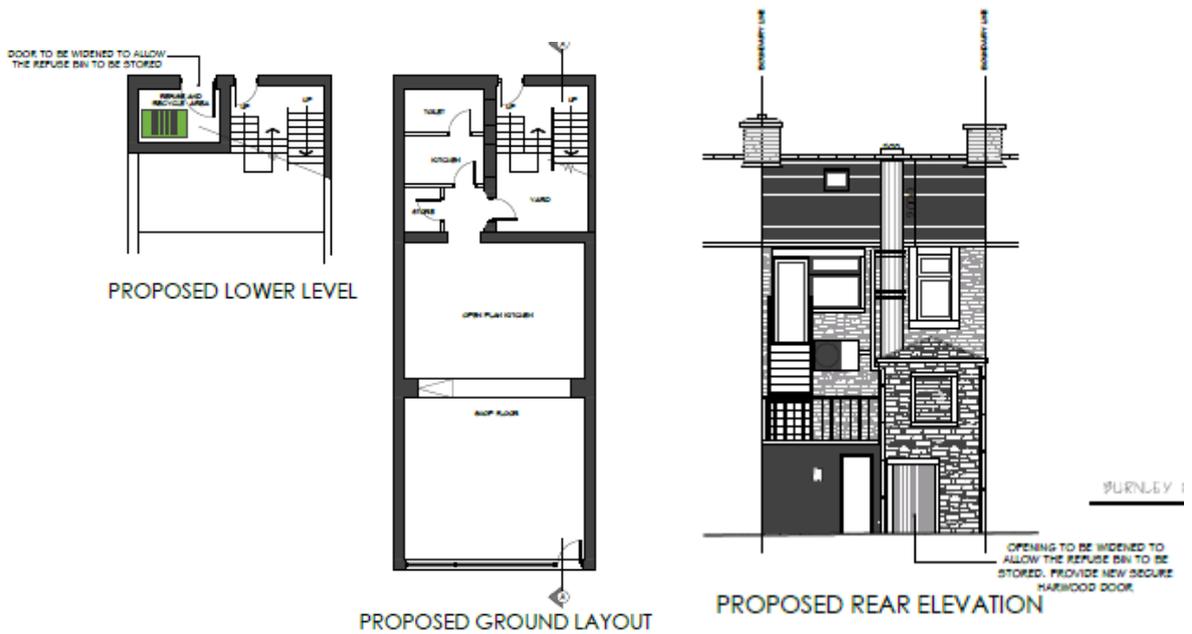
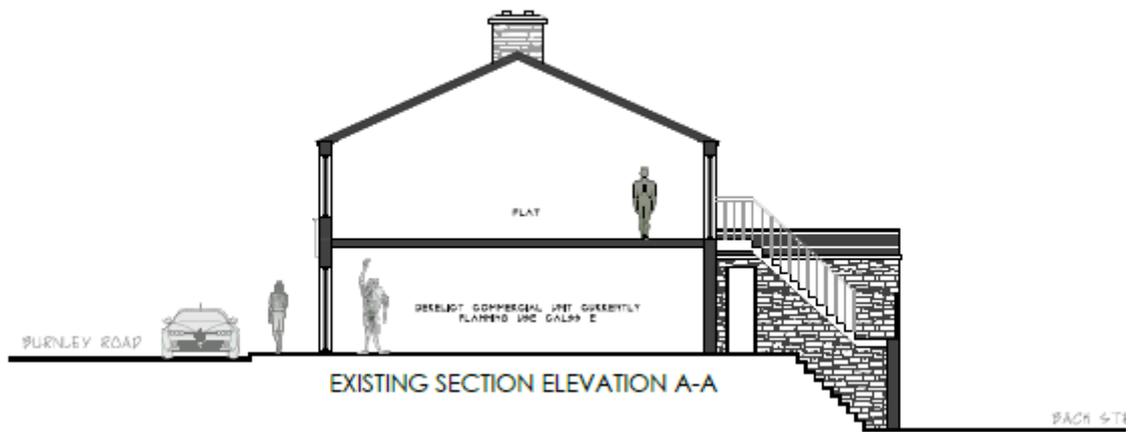
into force, amending the Town and Country Planning (Use Classes) Order 1987. Due to this, the previous betting shop use class, Class A2 now falls under the new use class, Class E. Hot Food Takeaways used to fall under use Class A5, but now fall under use Class Sui Generis.

The existing ground floor comprises of an open plan shop floor, w/c, kitchen and toilet. The proposed change of use will consist of altering the internal layout to accommodate a shop floor, counter, open plan kitchen, storage room, kitchen and toilet. Due to the topography of the land around the site, the property benefits from a lower ground floor which accommodate a rear yard.

No external alterations are proposed to the front elevation. It is proposed to install a 500mm galvanised mild cowl to be set 2m above the properties eaves height with a vertical discharge. This will be positioned on the rear façade set between the 2 first floor windows, it will be fixed with brackets.

Refuse will be stored in the existing lower level of the existing outrigger. It is proposed to widen the door of the outrigger which fronts onto the alley which passes behind the rear of all of the properties sited on the southern side of Burnley Road the application is part of. A new hardwood door is proposed.





Relevant Policies:Burnley Local Plan (July 2018) Policies:

SP1: Achieving Sustainable Development

SP4: Development Strategy

SP5: Development Quality and Sustainability

EMP3: Supporting Employment Development

TC7: Hot Food Takeaways

NE5: Environmental Protection

IC1: Sustainable Travel

IC3: Car Parking Standards

Appendix 9: Car Parking Standards

National Planning Policy Framework (NPPF)**Relevant Planning History:**

APP/2006/0124: New shop front - APPROVED

APP/2005/0629: Proposed change of use from (Class A1) to (Class A2) Licensed Betting Office – APPROVED

APP/2005/1111: Display of shop sign illuminated by trough-lighting - APPROVED

APP/2005/1109: New shop front - REFUSED

Consultation Responses:

Architectural Liaison: No objection in principle, however, in order to keep people safe and feeling safe, and to prevent crimes such as burglary, criminal damage and violence towards staff, Lancashire Constabulary Designing Out Crime Officers recommend a number of security measures be incorporated into the proposed development – *the security measures will be attached via an informative.*

Environmental Health: The nature of the hot food takeaway has not been specified which means that the strength of potential odours has not been identified. A risk assessment in line with the Annex C Guidance on the Control of Odours and Noise from Commercial Kitchen Extraction Systems has not been submitted hence a worse case is assumed. The proposed elevation plan clearly shows a skylight window on the flat above the height of the proposed chimney. This window is relevant as part of the risk assessment and ideally the emission stack should be above this level. Predicted noise emissions from the extraction plant are identified in this application. It is assumed that these would remain unchanged as part of any revised scheme. – *Discussions were had between the agent and the Environmental Health Officer and subsequently a revised scheme was submitted. Raising the height of the extraction flue from 1m above eaves height to 2m.*

Further comments received: The intended use of the takeaway is as a fried chicken takeaway i.e. low odour potential. The raising of the height of the extraction to 2m above eaves height will overcome the concerns for emissions of odour. The agent also advised that the client wishes to operate at lunch times as well as in the evening. I would note there is no objection to lunch time use from an Environmental Health perspective. Evening closing times should be consistent with other takeaways in the area.

Health & Safety Team: No comments have been received.

Highways: No objection in principle subject to matters being addressed. The proposed change of use would not raise any highway concerns subject to the refuse bins being stored within the refuse storage and recycle area, the plans as submitted would place refuse bins within the adopted highway and the door to the refuse storage and recycle area would not allow the commercial refuse bin to gain access due to its width being smaller than that of the

commercial bin, the Local Authority requests that the plans are revised to reflect exactly what is being proposed and subject to the commercial refuse bin being stored within refuse storage and recycle area then the Local Highway Authority would raise no objection to the development proposal – *Subsequently, amended plans have been received widening the doorway of the proposed refuse and recycle storage area.*

Public Consultation: 5 letters of representation have been received objecting to the proposal with the following material considerations:

- Within 1 mile of the proposed takeaway are 17 other hot food takeaways therefore, the proposal would create an unacceptable concentration of similar uses.
- Exacerbate parking issues within the area
- Higher risk to pedestrian safety due to the increase in vehicular movement in and around the area
- Additional reason for the local youth to visit the area, loiter and cause more behavioural misdemeanours.

Planning and Environmental Considerations:

When assessing this application there are a number of important material considerations that need to be taken into account. They are as follows:

- Principle of Development;
- Visual Impact / Design;
- Residential Amenity; and
- Highways

Principle of Development:

Local Plan Policy SP1 sets out a presumption in favour of sustainable development and makes clear that development proposals that are sustainable will be welcomed and approved without delay. In order to be sustainable, development must accord with national and local policy and have regard to, amongst others, the priority afforded to accommodating growth within the development boundary through the efficient use of land and buildings; and the need to develop sites that are well located in relation to services and accessible by public transport, walking and cycling.

Policy SP4 states that development will be focussed on Burnley and Padiham with development of an appropriate scale.

The application site is located within the development boundary for the urban area of Padiham, as defined in Burnley's Local Plan. It would therefore, be considered to be located within a sustainable location.

Policy EMP3 of the Local Plan relates to supporting employment development. For new and improved sites and premises any expansion, upgrading or establishment of a new business premises within the Development Boundaries will be supported where they comply with other relevant policies in the Plan and where:

- a) They do not by reason of the nature of their operation or vehicle access arrangements, have an unacceptably negative impact on surrounding uses, residential amenity or the environment; and
- b) They do not (either individually or cumulatively) through their form and design have an unacceptable impact on the landscape or townscape.

It is considered that the proposed development meets the requirements of Policy EMP3 as the proposed development will help support an existing business, an in-depth consideration of the aforesaid issues will be addressed later in this report.

Policy TC7 of the Local Plan relates to the provision of Hot Food Takeaways. The supporting text of this policy states that hot food takeaways represent a popular service for local communities and an important complementary use in Town and District Centres. They can offer important economic development and employment opportunities. Nevertheless, it is recognised that hot food takeaways have a greater potential than retail uses to create disturbance and detract from residential amenity and environmental quality.

Policy TC7 supports the provision of hot food takeaways subject to relevant criteria being met as set out within this policy:

Location

- 1) Proposed for hot food takeaway will only be permitted in the following areas:**
 - a. Within the areas of Secondary Frontage or Burnley Primary Shopping Area;**
 - b. Within Padiham Town Centre; or**
 - c. Within a defined District Centre**

The application property is located with Padiham Town 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.**

The application is sited in one of the listed areas as stated in part 1) of this policy and therefore, is not relevant.

- 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:**

The application is sited in one of the listed areas as stated in part 1) of this policy and therefore, is not relevant.

Clustering

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

It is acknowledged by the Council that there are several other hot food takeaways which appear to be sited on the northern side of Burnley Road within the vicinity of the application site. It is considered that the introduction of a further hot food takeaway in this location would not create an unacceptable cluster or create an unacceptable concentration. The hot food takeaways are divided by other class uses such as retail shops, hairdressers, betting shops and other similar uses.

Amenity

- b) The proposal will cause detriment to the free flow of traffic or residential amenity**

The proposal has been assessed by the County Highways Officer who has offered no objection to the scheme on highway grounds. The development will attract customers to the area which in turn could increase traffic flow to the area, however, it would not be to such an extent that would cause significant harm to residential amenity or the safety of highway users.

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;**
The location is accessible by walking, cycling and public transport. However, no off-street parking spaces are to be provided; the proposed use would rely solely on on-street parking.

Extraction of Odours

- e) **They provide for appropriate extraction systems to effectively disperse odours. 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**

A metal extraction flue is proposed on the rear elevation of the property, it will project 2m above the eaves height of the property but be set down from the main ridge height. Thus, it would only be visible when viewed from the rear of the property. Further to this, the development represents a similar form of development that is already existing within the immediate vicinity of the site. No. 90 Burnley Road currently operates as an Indian restaurant and takeaway and benefits from a substantially sized extractor fan to the rear of the property. It is therefore, considered that the proposed extraction fan would have no greater and impact than the existing fan of No. 90 Burnley Road on the visual amenity of the area.

The Environmental Health Officer has assessed the proposal and has confirmed that the proposal raises no concerns regarding the impact of the equipment on the amenity of neighbouring occupiers.

Waste

- f) **Their waste provision is appropriate to the scale and type of premises; and**
Refuse and recycling bins would be stored to the rear of the property in the lower ground of the existing outrigger. The door opening is to be widened to accommodate a commercial size refuse bin.
- g) **They provide appropriately sited bins for customers to use;**
No details have been provided in respects of bins for customer use.

Hours of Opening

- h) **When determining the appropriate hours of opening, regard will be had to:**
 - I. **the likely impacts on residential amenity;**
 - II. **the existence of an established late-night economy in the area; and**
 - III. **the character and function of the immediate area, including existing levels of background activity and noise.**

The proposed opening hours are 11am to 11pm Monday to Thursday and Sundays and 11am to 12am (Midnight) Friday to Saturday and Bank Holidays. The first floor of No. 88 Burnley Road is currently occupied as a residential flat. A number of other hot food takeaways in the immediate vicinity are currently operating with residential

properties above. It is, therefore, considered the proposal would have no greater an impact than existing relationships in the immediate vicinity.

The three closest hot food takeaways to the application site have the following opening hours:

PK's Pizza – 4.30pm – 12am
Taj Gourmet – 5pm – 11pm
New Taste – 4.30pm – 10.30pm

It is therefore, considered that there is an established late-night economy present within the area. Further to this, there is a public house sited on the corner of Burnley Road and Green Lane, The Bridge Inn which along with the existing hot food takeaways attributes to the late-night economy present within the area.

It is considered that the proposed takeaway would have no greater an impact on the area than the aforementioned established takeaways and public house in the area in regards to activity and noise.

4) Where appropriate, restriction will be placed on opening hours; however, this would not overcome the reason for refusal.

The hours of opening will be conditioned as per the hours set out in the application form:

- 11am to 11pm Monday to Thursday and Sundays; and
- 11am to 12am (Midnight) Friday to Saturday and Bank Holidays

Taking into account the above, it is considered that the proposed development meets the requirements of Policy TC7 of the Local Plan.

Therefore, the principle of the development is accepted, in accordance with the NPPF's presumption in favour of sustainable development and Policy SP1 of the Burnley Local Plan which reiterates this stance, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified; subject to assessment of the following matters:

Visual Impact / Design:

Paragraph 124 of the NPPF states the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. This is reiterated by Local Plan Policy SP5 which seeks high standards of design that positively address local context and characteristics.

No external alterations are proposed to the front façade of the application property. The alterations proposed to the rear are the installation of the extraction equipment and the widening and installation of a new door to the lower ground level of the existing outrigger.

It is considered that the proposed widening of the doorway is minor in nature and would not adversely impact the appearance of the application site.

The proposed extraction equipment will be screened from the principal elevation and Burnley Road by the application property. The equipment would be sited to the rear of the property and set down below the ridge line of the property. It would be visible from the Hapton Street and from the alley way which divides the terrace of properties the application is part of and

the properties sited on Back Altham Street. However, given that No. 90 Burnley Road currently benefits from a substantially sized extraction equipment it is considered that the proposed equipment would have no greater and impact than that of No. 90 Burnley Road. It will be similar in nature, style and design to that of the adjacent property albeit smaller.

It is therefore, considered that the proposed extraction equipment would not adversely impact the character and appearance of the host property to an extent significant enough to cause significant harm.

It is, therefore, considered that the proposed development would accord with Policy SP5 of the Local Plan and Paragraph 124 of the NPPF.

Residential Amenity

Policy SP5 of the adopted Local Plan seeks to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking.

This application only relates to the ground floor of the building, the plans show that the first floor is currently occupied as a residential flat. The site is situated on a main arterial route between Padiham and Burnley, where there is a concentration of activity and a level of disturbance from a range of sources over a prolonged period of the day. Given the nature of the application site and the surrounding area taken into consideration, it is not considered that the operation of a hot food takeaway would not result in any further significant impacts in terms of noise or disturbance.

It is acknowledged that the first floor of No. 88 Burnley Road is currently occupied as a residential property. The Coral Betting office used to be open 9am – 9pm most days. Further to this, there are a number of other first floor residential properties sited above similar class uses to that proposed as part of this application. The proposed opening hours of the proposed takeaway would have some impact upon the amenity of the occupier of the first floor flat, but no more so than existing relationships present within the immediate vicinity of the site. Therefore, it is considered that the proposal would not impact upon the amenity of residential properties surrounding the site to such an extent which would warrant the refusal of this application. The development, therefore, accords with Policy SP5 of the Local Plan.

Highways:

Policy IC1 seeks to ensure sustainable travel, highway safety and a safe and convenient means of access for all users. Policy IC3 requires the adequate provision of car parking for developments in accordance with specific parking standards set out in Appendix 9. In applying the parking standards Appendix 9 allows for local circumstances to be taken into account which includes the accessibility of the site by public transport, walking and cycling; the availability of existing public parking provision or on-street parking nearby; and whether any under-provision might cause or exacerbate congestion, highway safety issues or onstreet parking problems.

The Highways Officer has not object to the proposal on Highway grounds. A large proportion of the shops, restaurants and takeaways in the immediate vicinity of the site do not benefit from off-street parking for customers and solely rely on on-street parking of nearby streets. It is considered that the introduction of one additional hot food takeaway into the streetscene would increase the number of visitors to the area to such an extent that would adversely impact the surrounding highway network. There is adequate parking on adjacent streets to accommodate residents or nearby residential dwellings and short term parking for visitors to the takeaway without causing significant harm.

The development is, therefore, considered to accord with Policies IC1 and IC3 of the Local Plan.

Conclusion:

The proposed use, which is considered to be an acceptable use in such a location, and therefore, is considered to make a positive contribution to the diversity of uses on offer in the area. Further to this it would bring a vacant premises back into use and has the potential to help enhance the vitality of the area. The proposed use will operate during lunch time and evening hours and has the potential to make a positive impact not only on the night-time economy but on the day-time economy of the area too.

The proposed use is not considered to have a negative impact on the character of the area and would not result in a cluster of takeaway uses, but rather would have the potential to enhance the vitality and viability of a main arterial route into and out of Padiham Town Centre.

It is, therefore, considered that the proposed development does not raise any significant concerns in terms of impact upon amenity and is considered acceptable in relation to highway safety, extraction of odours and waste provision. Accordingly, the proposed development is considered to comply with the requirements of the Local Plan.

Recommendation: APPROVAL subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the approved plans listed on this notice below.

REASON: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity

3. The extraction equipment as proposed shown on 'Drawing Number – Job Number: (88BURN) – Classification (20) – Area: PL – Number 03' shall be installed prior to commencement of the hereby approved use, maintained to minimise noise and odour emissions and retained for the duration of the approved use.

REASON: To prevent loss of amenity to nearby residential premises arising from cooking odours and / or extraction system noise in accordance with Policy SP5 of the Local Plan.

4. The proposed widening of the doorway to the lower ground level of the rear existing outrigger and the provision of the proposed refuse and recycling storage hereby approved shall be implemented prior to the commencement of the use as shown on:

- Drawing Number – Job Number: (88BURN) – Classification (20) – Area: PL – Number 03

REASON: To ensure an acceptable standard of residential amenity in accordance with Policies TC7 and SP5 of the Local Plan.

5. The approved use shall be restricted to the following times:

- 11am to 11pm Monday to Thursday and Sundays; and
- 11am to 12am (Midnight) Friday to Saturday and Bank Holidays

REASON: To safeguard the amenities of the adjoining premises and the area generally; in accordance with Policy SP5 of the Local Plan.

6. Unless otherwise agreed in writing with the Local Planning Authority, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent Order following the revocation and re-enactment thereof (with or without modification), shall be used as a Hot Food Takeaway (Use Class Sui Generis) and for no other use within these use classes as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).

REASON: To ensure that the property is used solely as its intended use as any other use within use class may not be considered acceptable in the interest of amenity of the area and the area generally in accordance with Policies SP1, SP4, SP5 and TC7 of the Local Plan.

Planning & Compliance Officer
RH