

Application Recommended for REFUSAL

COU/2021/0008

Rosegrove with Lowerhouse Ward

TOWN AND COUNTRY PLANNING ACT 1990
FULL PLANNING APPLICATION

Applicant: Mr Matthew Stansfield

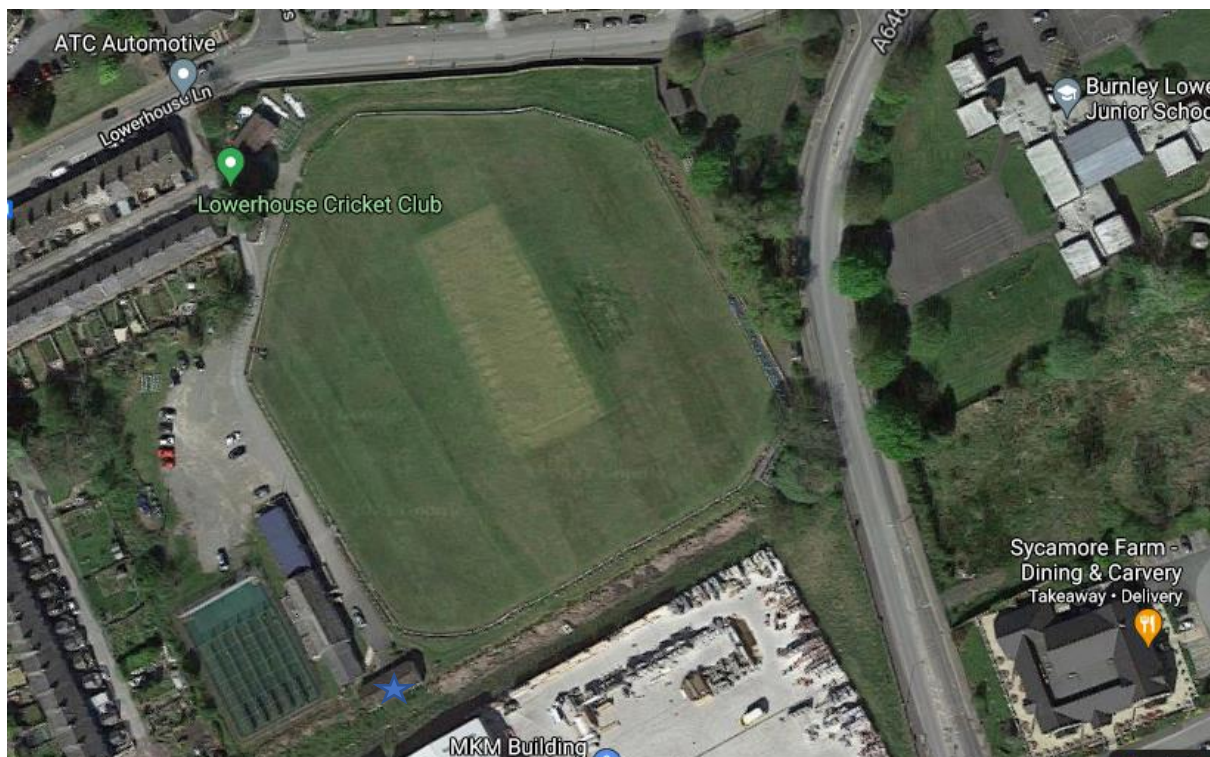
Site Address: Lowerhouse Cricket Club, Lowerhouse Lane, Burnley, Lancashire, BB12 6LP
Proposed Development: Change of use of detached function room to Hot Food Takeaway
(Use Class Sui Generis)

The application is before the committee following member call in.

Councillor Emma Payne
Councillor Mark Payne
Councillor Charles Briggs

Background:

This application relates to an existing building known as the tea-room which forms part of the small group of buildings facilitating the established cricket ground. The tear-oom is the most southerly building within the site and is detached from the main building. The cricket club is accessed off Lowerhouse Lane and benefits from a substantial size car park.





Proposal:

Planning permission is sought for the change of use of the detached function room to a Hot Food Takeaway (Use Class Sui Generis).

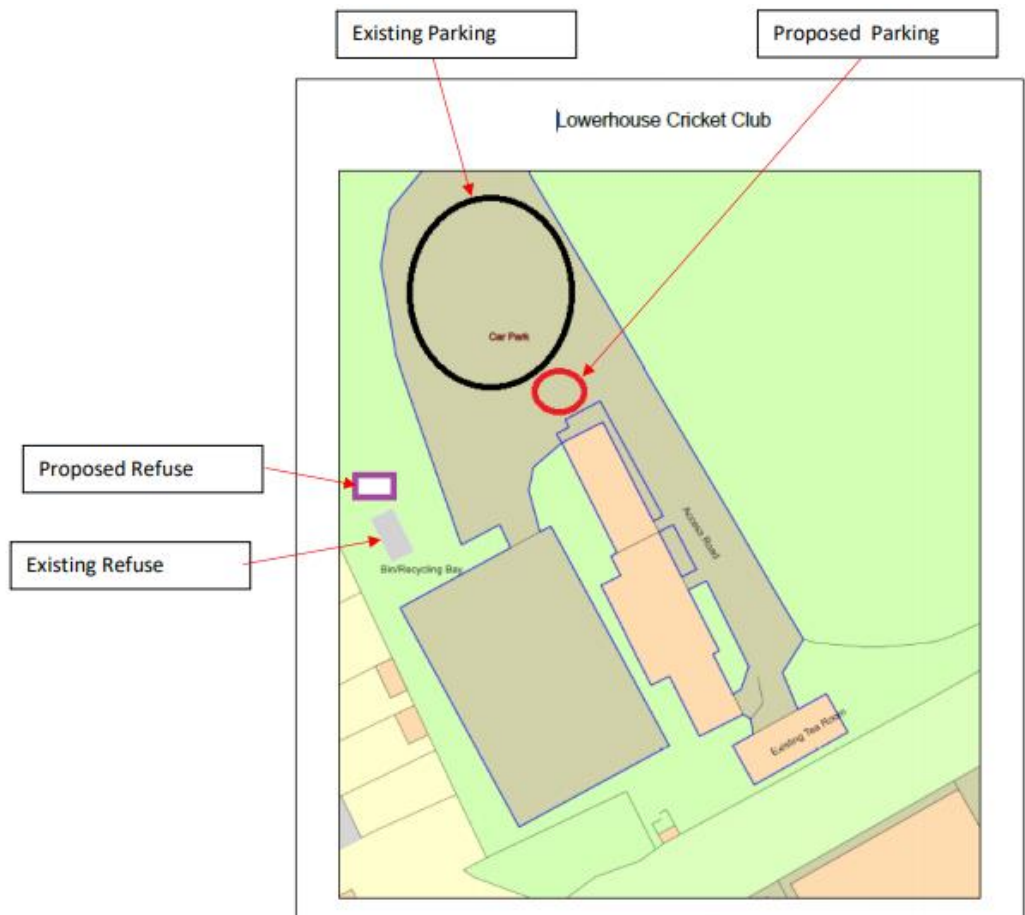
The existing floor plan comprises of an open plan room with a service counter. The proposed change of use will consist of the installation of a prep counter and a pizza oven. No external alterations are proposed to the building other than the installation of additional extraction equipment which will be sited on the rear of the application property.

Refuse will be sited adjacent to the current cricket club refuse area. The supporting statement confirms that in respect of welfare facilities for customers and staff, the facilities within the main clubhouse will be open at the same time as the proposed takeaway and full access to the facilities will be available to patrons.

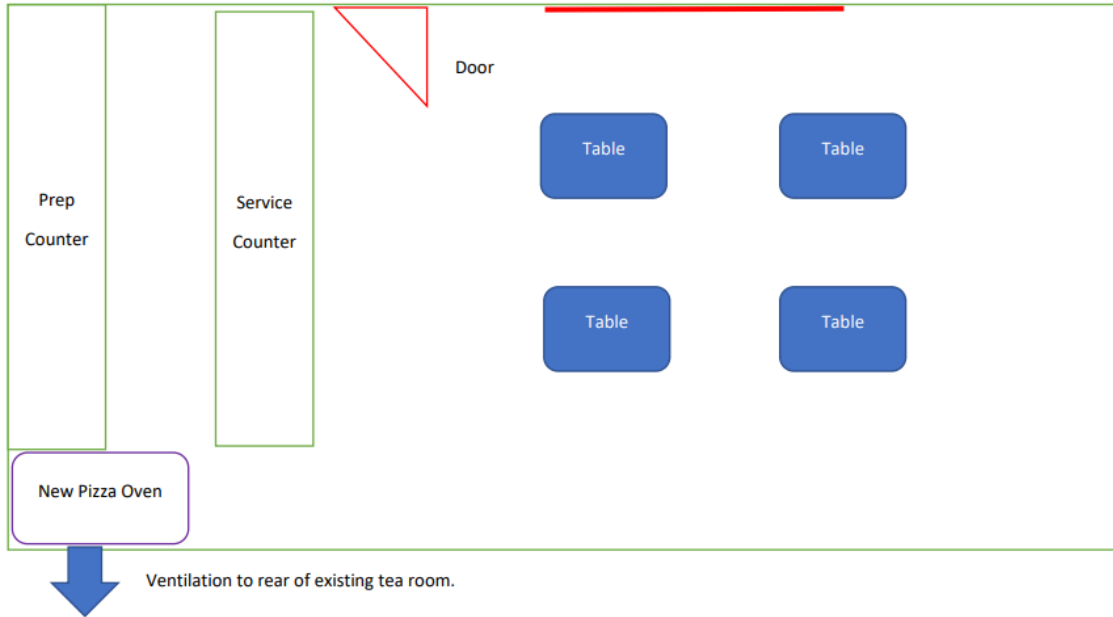
The application site currently provides circa 80 parking spaces, 8 of these existing spaces will be allocated solely for the use of the takeaway.



Existing Floor Plan



Proposed Site Plan



Proposed Floor Plan

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:

N/A

Consultation Responses:

<p>Highways:</p>	<p><i>Response received 9th March 2021:</i></p> <p>With respect to this application we would wish to raise any objection to the principle of the application. There is however a concern over the intensification of the use of the site with poor visibility at the access from Lowerhouse Lane.</p> <p>In order to support this application we would look for a section of the wall at the entrance from Lowerhouse Lane to be lowered to a height of less than 1m. This shall start from a point 2m from the rear of the footway of Lowerhouse Lane along David Wren Way and running for a length of 20m towards Liverpool Road. Additionally no other structure or planting shall be allowed above 0.9m within the improvement line created by the lowering of the wall.</p> <p>In order to progress this application we would require that further submissions are made showing that this improvement line on a plan.</p>
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	<p>If this is not for coming we would not be able to support the application.</p> <p>Should you wish to support the application we would wish that this condition is added to the application decision.</p> <p>a) Highway frontage reduction. Before the development hereby permitted becomes operative, the existing wall on the highway frontage of the site to Lowerhouse Cricket Club shall be reduced to and be permanently maintained henceforth at a height not greater than 0.9m above the nearside carriageway level. As detail previously. Reason: To ensure adequate visibility for the drivers of vehicles entering and leaving the site.</p> <p>b) Landscaping & maintenance of vegetation within the approved visibility splays. No development shall take place until details of a landscaping and maintenance scheme of the land within the approved visibility splays have been submitted to, and approved in writing by, the local planning authority in consultation with the highway authority. Reason: To ensure adequate inter-visibility between highway users at the street junction or site access, in the interests of highway safety.</p> <p>Discussions between the Highways Officer and the Cricket Club representative took place and the Highways Officer agreed to re-look at the proposal following a rebuttal statement submitted by the representative. <i>Additional comments were received on the 19th April 2021:</i></p> <p>There are still concerns regarding this access.</p> <p>I have been looking at alternatives but there is not real alternative that would not involve some expenditure. Those who use the access regularly are aware of it's limitations however the intensification of the access is still a concern.</p> <p>The main concern is the lack of sight for emerging traffic especially those turning right onto Lowerhouse Lane.</p> <p>I will seek a second opinion</p> <p><i>Upon seeking a second opinion further Highways Comments were received on the 4th May 2021:</i></p> <p>I have sort a 2nd and 3rd opinion regarding this access, we are still of the opinion that the access is poor by moderns standards and there are highway safety concerns.</p> <p>Works to improve the access will need to be carried to enable us to remove our objection.</p>
Public Consultation:	No letters of representation have been received.

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, 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 not located within one of the aforesaid areas.

- 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 site forms part of an existing cricket club and is sited a considerable distance from any nearby residential property.

- 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:**

Further assessment below.

Clustering

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

The application site forms part of an existing cricket club and therefore, it is considered that the introduction of a hot food takeaway in this location would not create an unacceptable cluster or create an unacceptable concentration.

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 an objection to the scheme on highway grounds. Series concerns have been raised by the Highways Officer due to the intensification of the use of the site with poor visibility at the access from Lowerhouse Lane.

The Officer confirmed that in order to support the application works would need to be carried out to the existing access to improve visibility from the existing access to ensure the free flow of traffic.

The Lowerhouse Cricket Club representative has been in discussions with the Highways Officer and do not believe that works to the access are required. The following supporting information has been submitted and assessed by the Highways Officer and submitted in support of this application:

The braking distance for a car travelling at 30 mph is 75 feet. 105 feet is approximately a 35-mph stopping distance in length. Assuming that cars don't speed here , and it would be difficult to do so , approaching drivers should have sufficient time to brake. Emerging cars similarly so.

Allied to the fact that there appears to have been no more than 2 accidents in the last 15 years from over 400,000 emerging vehicles (using the figures in the main reply) we must raise these matters with you .

I would like to add some further information and revise a figure I presented in my previous email in which we outlined our case

In that original email I pointed out that the stopping distance available was 40 feet more than required under the highway code . I based this on the road being a 30-mph limit.

Lowerhouse Lane at that point is in fact a 20-mph zone . This therefore gives 75 feet more than the braking distance required (115 feet view for emerging and oncoming vehicles)

I would also like to point out the following .

On April 20th this year, and for the second year running , Lowerhouse Junior School conducted their cycling proficiency directly outside our junction . This involved cycling up and down the road and passing a parked vehicle and into oncoming traffic from the right as one emerges from the club . I spoke to the teacher , Dan Hoyle and the cycling proficiency officer , Hugh Doyle and both agreed to support our argument that the junction is awkward , but not dangerous . I think logic dictates that these gentlemen would not subject primary school children to a dangerous situation.

The above information was accessed by the Highways officer who concluded that works to the access were required for Highways department to support this application. No information to date has been submitted for works to the access and discussions with the cricket club representative stated that they were reluctant to carry out such works as they did not deem them necessary.

The Highways Officer has confirmed that subject to a number of conditions requiring the submission of details for improvement works to the access the proposal would be acceptable. Therefore, the council consider these necessary for the application to be supported. The Cricket Club representative has confirmed that they do not consider the works necessary and do not intend to carry out the works. Therefore, the proposal is consider to be harmful to the free flow of traffic in regards to highways safety.

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. 8 parking spaces are to be allocated solely for the use of the takeaway.

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

Additional extraction is proposed to be installed. Discussions with the Environmental Health officer have taken place informally regarding the installation and the level of equipment required for a pizza oven is considered minimal and therefore, is considered acceptable in regards to omissions and noise.

The equipment will be sited to the rear of the property, further to this it will be minimal in nature and therefore, will not cause an adverse visual impact.

Waste

- f) Their waste provision is appropriate to the scale and type of premises; and** Refuse and recycling bins would be stored adjacent to the existing refuse storage used by the main cricket club house.
- 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 Monday to Friday 16:00 to 20:30 and 10:30 to 20:30 Saturday, Sundays and Bank Holidays. Given that the application property is sited circa 56m from the nearest residential property and is sited within an established cricket club site it is considered the proposal would have no greater an impact than existing relationship the cricket club has with properties in the immediate vicinity.

- 4) Where appropriate, restriction will be placed on opening hours; however, this would not overcome the reason for refusal.** Should consent be granted the hours of opening will be conditioned as per the hours set out in the application form:

- Monday to Friday 16:00 to 20:30 and;
- 10:30 to 20:30 Saturdays, Sundays and Bank Holidays

Taking into account the above, it is considered that the proposed development fails to meet the requirements of Policy TC7 of the Local Plan due to the highway safety concerns raised by the intensification of the site and the visibility of the existing access. As set out above, these concerns could be addressed by the submission of an improvement scheme, however, the cricket club representative has confirmed they do not consider these works necessary and consider a scheme is not required.

Therefore, the principle of the development is considered unacceptable.

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. The proposed extraction equipment will be screened by the application property. Given the level of equipment required is minimal in nature it is consider 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.

The proposed takeaway would be sited circa 56m from the nearest residential property and be read in association with an established cricket cub. The hours of opening are considered acceptable and will not operate outside of hours considered to be harmful.

Therefore, it is considered that the proposal would not impact upon the amenity of residential properties surrounding the site. 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 objected to the principle of this proposal however, has raised serious concerns regarding the need for a scheme for improvement works to the access due to the intensification of the site.

The cricket club representative has submitted evidence to support their argument that the scheme is not necessary which has been reviewed by the highways officer, who in this instance believes that the works are necessary to improve visibility.

In the absence of a scheme the proposal is consider harmful to highway safety and the safe and convenient means of access for all users contrary to IC1 of the Local Plan.

Conclusion:

The proposed use, therefore, is consider unacceptable in terms of principle and highways safety in the absence of a scheme for improvement works to the access and is considered contrary to Local Plan Policies TC7 and IC1 and the NPPF.

Recommendation:

REFUSAL for the following reason:

- The proposed takeaway use would lead to an intensification of the site using the existing access. In the absence of a scheme for improvement works to the access to improve visibility the development is considered to have an adverse impact upon highway safety and the safe and convenient means of access for all users contrary to Local Plan Policies IC1 and TC7 and the NPPF.

RH
Planning & Compliance Officer