

**Application Recommended for Approve with
Conditions**

COU/2021/0536

Daneshouse With Stoneyholme

Town and Country Planning Act 1990

CHANGE OF USE FROM BETTING SHOP (SUIGENERIS) TO CAFE (Use Class E)

WITH A EXTRACTOR FLUE TO THE REAR

148-150 Colne Road Burnley Lancashire BB10 1DT

Applicant: Mr Waseem

Background:

The application site relates to a mid-terrace commercial property located on Colne Road in Burnley. The premises is a former betting shop as such its current use is sui generis.

The application has been brought to the development control committee as one letter of objection has been received.



Proposed development:

Consent is sought to change the use of the unit Nos. 148-150 Colne Road to a café (Use class E). It is proposed to operate between 09:00 hours and 22:00 hours Monday to Sunday, including Bank Holidays.

There is no off-street parking provided and parking would be on-street. On-street parking is restricted directly in front of the property, but there is a layby accommodating around 3 cars close by.

A flue extraction system would be provided at the rear of the property.

Relevant Policies:Burnley's Local Plan Adopted 2018

TC6 – District Centres

SP1: Achieving Sustainable Development

SP4: Development Strategy

SP5: Development Quality and Sustainability

EMP3: Supporting Employment Development

Site History:

None relevant

Consultation Responses:

Highways - The Highways Depot (Burnley District)	The highways engineer had no objection in principle to the development. As the property has no outside space the bin store must be kept within the confines of the site and therefore the rear entrance door is proposed to be widened to accommodate this.
Environmental Health	Environmental Health objected to the development due to the proposed height of the exhaust flue. The applicants agent subsequently submitted an amended plan and the EHO has no objection to the development.

Planning and Environmental Considerations:**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.

Paragraph 80 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future

The application site is within a district centre as defined with the Local Plan. It would, therefore, be considered to be located within a sustainable location.

Policy TC2 of the Local Plan section 3) states that for proposals for convenience and other retailing (A1 to A5 Use Class) and other main town centre uses are required to be located in Town Centres. Where suitable sites are not available, these are required to be located in accordance with the following sequential test: Edge of Centre locations (300m of the Town Centre boundary); out of Centre.

Part 2) of Policy TC2 sets out the requirements of the aforementioned sequential test. The site is located outside of Burnley Town Centre. It would, therefore, be considered to be located on an out of centre site, however, it is considered to be in a sustainable location, in walking distance of a wide range of services and a number of bus services. Further to this, the development will ensure the viability of the area by ensuring the property is in use rather than being a vacant unit.

Policy TC 6 states that within a district centre development appropriate for commercial and community uses will be considered acceptable in principle providing that is satisfies other policies elsewhere in the plan and

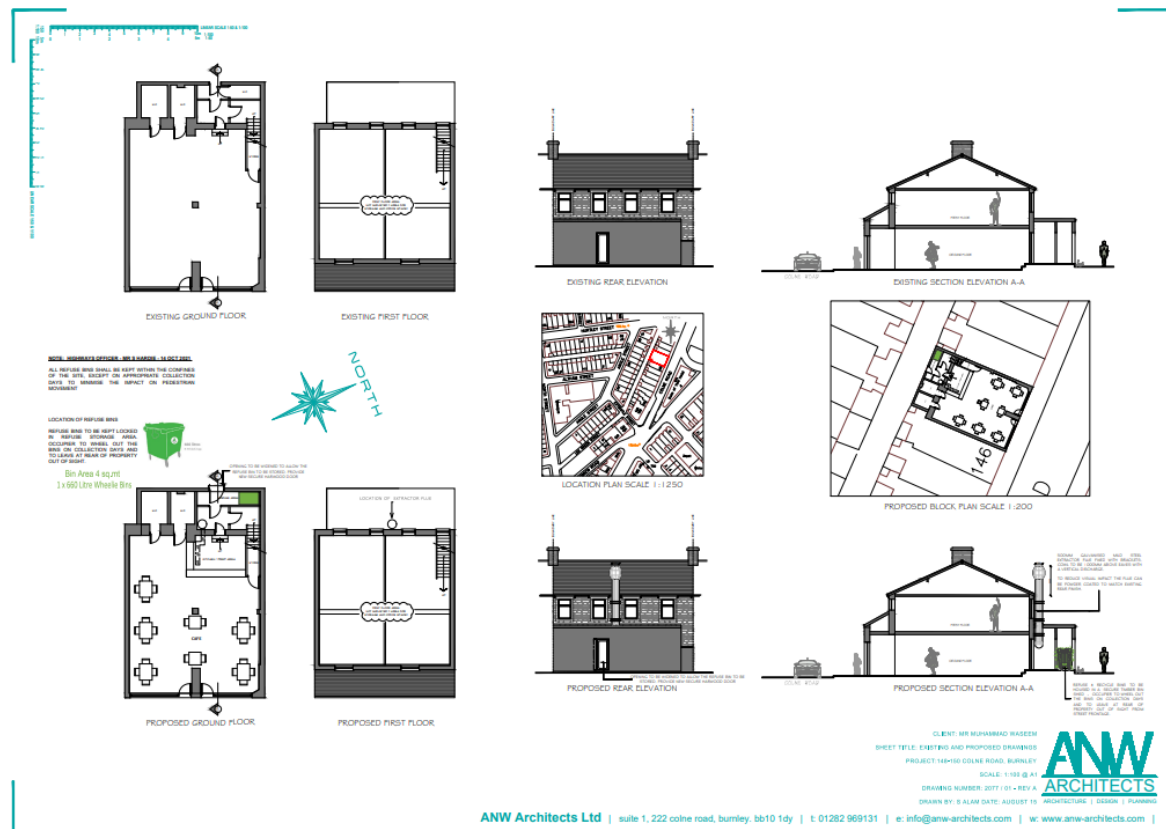
a) it is of a reasonable scale in relation to the centre and

b) it does not unreasonable harm the amenities of local or adjoining residents or users.

As such the development is considered acceptable subject to an assessment of the above as well as impact on the visual amenity of the area and an assessment on any highway impact.

Scale:

The development proposes the use of the site as a café with a seating area and kitchen at ground floor. The first floor is proposed to be used for storage and office space associated with the business. The floor space to be used for the café is considered to be of a reasonable scale in relation to the district centre.



Visual Amenity:

The proposed alterations to the premises will not significantly change its appearance externally other than the erection of the flue to the rear. To reduce the visual impact of the flue, the flue will be powder coated black to reduce the impact when viewed from the rear. The development does not propose any signage. A separate application for advertisement consent may be needed.

Impact on Residential Amenity:

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

The application property backs onto residential dwellings and the first floor of the property immediately adjacent to the application site has a residential use. As there is no outside space associated with the application site it is considered that the use of the premises would have minimal impact on the residential amenity of the dwellings to the rear.

The attached neighbour, a first floor flat, benefits from a raised platform at the rear that is used as an external space for the property and the proposed flue has the potential to result in smells to this area. The EHO raised concerns with the height of the flue and subsequently the flue was increased in length so that the flue exceeded the eaves of the building. The EHO considers that the flue would have an acceptable impact on this property. Notwithstanding the above, the dwelling is located in a commercial area and the following a planning history search the platform does not have planning consent.

In addition, the nature of the use of property as a café would not expect to create a significant amount of noise apart from noises from customers and staff. A condition will be attached to the permission restricting the opening hours of the business.

Furthermore, in the wider vicinity Colne Road is populated by a mix of commercial development and as the site is within the district centre a certain level of noise from vehicles and businesses is to be expected.

Any antisocial behaviour or unacceptable noise is for the licensee and bodies such as the police and licensing authority to control and enforce as necessary.

Highway and Waste:

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 on street parking problems

The LCC highway engineer has no objection in principle as the site is in a sustainable town location but has advised that the applicant needed to provide details of refuse storage. The applicant's agent submitted an amended plan showing internal refuse storage and the highways engineer confirms the proposed refuse storage is acceptable.

Recommendation:

That planning consent be granted subject to conditions.

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Existing and Proposed Plans: 2077/01 Rev A

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The use of the premises hereby permitted, shall only be operated between the following hours: 09:00 - 22:00: Monday to Sunday including Bank Holidays.

Reason: To define the scope of the consent hereby approved and in order to protect nearby residential amenity.

4. 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 cafe (Use Class E) at ground floor with ancillary storage and office at first floor (Use Class E) 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, TC2 and EMP3 of the Local Plan.

5. The proposed refuse provision hereby approved shall be implemented prior to the commencement of the use hereby approved. Thereafter the approved facilities together with the means of access thereto shall be maintained and carried out as approved and be retained for the benefit of the lifetime of the development hereby permitted.

Reason: In the interests of amenity in accordance with Policies SP5 of the Local Plan

6. Prior to the extraction flue being first brought into use all external parts of the flue and cowl and associated fittings shall be coloured black/a dark matt finish and retained as such at all times in the future.

Reason: In the interests of amenity in accordance with Policies SP5 of the Local Plan