

Application Recommended for Approve with Conditions

FUL/2022/0084

Daneshouse With Stoneyholme

Town and Country Planning Act 1990

Change of use of part of existing dwelling to form extension to existing hot food takeaway.

16 Elm Street Burnley Lancashire BB10 1AJ

Reason: The application has been brought to committee as there is a resident objection

Background:

The application site is located within the defined development boundary as designated in Burnley's Local Plan in which policy SP4 applies

The site comprises of an existing hot food takeaway at No. 16 Elm Street. The attached property to the south is No. 47 Devonshire Road which would appear to be a commercial property. To the north is No. 18 Elm Street which is a double fronted terraced property with 3 bedrooms. The wider area is predominantly residential, however there are some commercial premises within the area.



Photo 1: existing front elevation (April 2022)



Photo 2: Front elevation showing the neighbouring property No. 18 (April 2022)



Photo 3: provided by the applicant, flue to the rear of the property

Proposal

The application seeks consent to extend (internally) the main takeaway area which will move into the ground floor of No. 18 Elm Street. Submitted plans show a larger counter area and larger preparation area.

The attached property at No. 18 Elm Street shall become a 2 bedroom property with down stairs lounge and rear kitchen. No external alterations are being made.

There is an existing flue to the rear of the property which does not involve any alterations as part of this application.

Proposed hours for operation are to remain the same 11am – 11pm 7 days a week.

Any new signage may require the benefit of advert consent and the applicant should be aware of this.

EXISTING SITE PLAN 1:500 (A1)



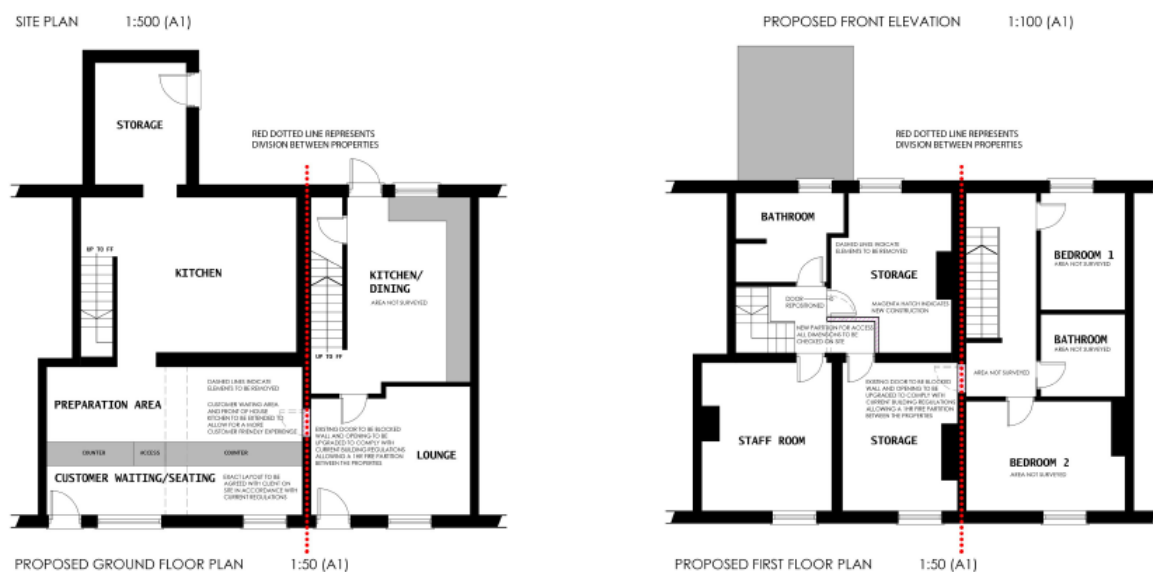
EXISTING GROUND FLOOR PLAN 1:50 (A1)

EXISTING FRONT ELEVATION 1:100 (A1)



EXISTING FIRST FLOOR PLAN 1:50 (A1)

Plan Extract: existing plans



Plan Extract: proposed plans



Relevant Policies:

Burnley's Local Plan 2018

SP1 – Achieving Sustainable Development
SP5 – Development Quality and Sustainability
TC7 – Hot Food Takeaways

NPPF 2021

Site History: None relevant

Consultation Responses:

Highways

Lancashire County Council has no objections to the proposed development and is of the opinion that the proposals should have a negligible impact on highway safety and highway capacity within the immediate vicinity of the site.

Environmental Health

A scheme of noise insulation between the commercial and residential premises shall be submitted to and approved in writing by the Local Planning Authority before any building work commences on the site. The insulation provided shall ensure that the noise level within the residential premises does not exceed: 35 dB LAeq, 16hour for living rooms (07.00 hours - 23.00 hours); 35 dB LAeq, 16hour for bedrooms (07.00 hours – 23.00 hours 30 dB LAeq, 8hour for bedrooms (23.00 hours – 07.00 hours); 45dB LAmax for individual noise events in bedrooms (23.00 hours – 07.00 hours).

Reason to not result in unacceptable conditions for future users and occupiers of the development, in regard to noise, in accordance with policy SP5 of Burnley's Plan.

Public comments – 1 objection received summarised as follows:

- Increase in capacity will put further pressure for on street parking leading to safety issues with children who play nearby
- Issues of anti-social behaviour and people gathering outside the takeaway with impacts on residential amenity

Planning and Environmental Considerations:

The principle of development

The site is located within the development boundary of the adopted Local Plan, as such policy SP4 states that development will be focused on Burnley and Padiham with development of an appropriate scale.

Main issues

- The proposed use
- Impact on the amenity of neighbouring uses
- Environmental Health

The principle

Policy TC7 of Burnley's adopted local plan sets out the location of where hot food takeaway premises could be located. The site is already established as a takeaway, with the application seeking a 20sqm increase to the existing business area which mainly comprises of the counter and preparation area. If the takeaway did not exist already and TC7 was assessed, then it would be difficult to comply with the policy requirements. However, given the site is established an assessment needs to be taken as to whether or not the increase in 20sqm has a detrimental impact on the

amenity, access and parking, odours, waste and opening hours. Each will be taken in turn below:

Amenity and accessibility

The site is located within a sustainable location. There is the availability of on street parking and LCC highways have been consulted on the application and have no objections.

Extraction of Odours

There is an existing extraction flue located to the rear of the business which is to remain in place. There are no proposals to alter the flue as part of this application and should any works be carried out then planning permission would be required. The Council's Environmental Health team have been consulted and suggest a condition on noise insulation between the properties.

Waste

Will remain the same.

Hours of Operation

There is no proposal to alter the hours of operation at the site. Whilst an increase in 20sqm at the site is not considered to have a detrimental impact on the adjoining properties or wider residential area, it is considered appropriate to attach a condition for the hours of operation to not extend beyond 11pm. This will allow the Council to have control over the use given the surrounding residential properties and potential for nuisance and noise into the evening.

The principle of the internal expansion of the takeaway is therefore considered appropriate.

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.

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.
- 4) Where appropriate, restrictions will be placed on opening hours through the use of planning conditions.

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.

As this is an existing hot food takeaway, the use and associated activity is established. A condition has been requested from Environmental Health on noise mitigation between the adjacent property No. 20. It is therefore considered that the proposed expansion will not cause any harm, and as such will be in accordance with policy SP5 and NE5 of the adopted Local Plan.

Highways

Have been consulted and have no objections. The site is within a sustainable location and there is the availability of on street parking.

Neighbour comments

The comments made by a local resident are noted and it is accepted that takeaways can generate additional noise and disturbance. The current hours of operation are reasonable within a residential area and LCC highways do not consider that there to be any issues with current highway safety issues including parking. The expansion has to be considered in context to what is there already, and in this case an increase in 20sqm is not considered to be detrimental to the amenity of the surrounding area.

Recommendation: Approve subject to conditions

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

- 2 The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans listed below, unless otherwise agreed in writing by the local planning authority.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings.

3. A scheme of noise insulation between the commercial and residential premises shall be submitted to and approved in writing by the Local Planning Authority before any building work commences on the site. The insulation provided shall ensure that the noise level within the residential premises does not exceed: 35 dB LAeq, 16hour for living rooms (07.00 hours - 23.00 hours); 35 dB LAeq, 16hour for bedrooms (07.00 hours – 23.00 hours 30 dB LAeq, 8hour for bedrooms (23.00 hours – 07.00 hours); 45dB LAmax for individual noise events in bedrooms (23.00 hours – 07.00 hours).

Reason to not result in unacceptable conditions for future users and occupiers of the development, in regard to noise, in accordance with policy SP5 of Burnley's Plan.

4. The use hereby approved shall not operate outside the hours of 11am and 11pm on any day.

Reason: In order to safeguard the residential amenity of nearby residents.