

**Application Number** 07/2023/00489/FUL

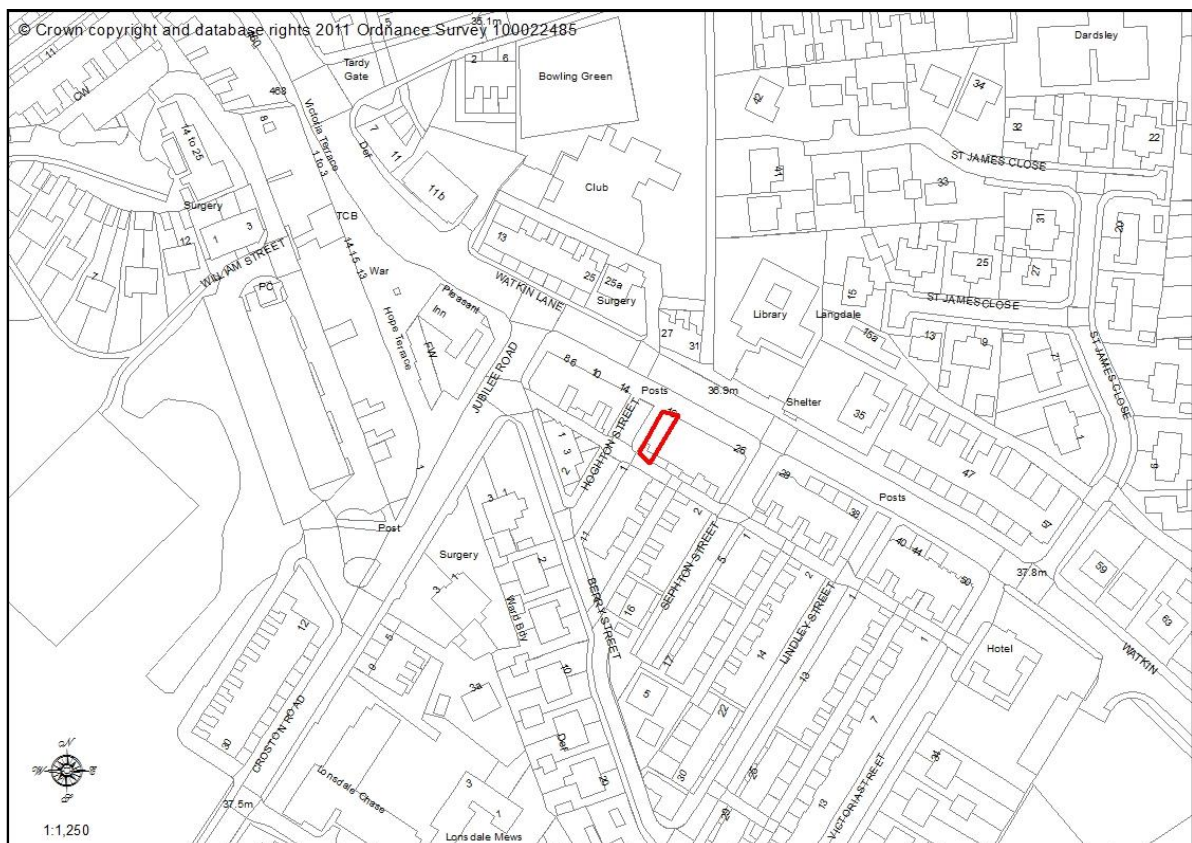
**Address** 16 Watkin Lane  
Lostock Hall  
Preston  
Lancashire  
PR5 5RD

**Applicant** Mr Asif Abbas

**Development** Change of use to hot food takeaway (Use Class: Sui Generis) and installation of external extractor flue.

**Officer Recommendation** Refusal

**Validation Date** 15.6.23  
**Received Date** 15.6.23  
**Extension of Time** 09.10.23



## **1. Introduction**

1.1. This application is presented to Committee as the proposal is for change of use to a hot food take away (Sui Generis use class), and installation of extraction system to the rear elevation.

1.2. The application refers to an end of terrace/corner, commercial property, located at the junction of Watkin Lane with Hoghton Street. The property is in a mixed-use area but within the Tardy Gate District Centre designated under Policy E4 (District Centres) of the South Ribble Local Plan.

1.3. Nine letters of objection and one in support have been received following two rounds of consultation. Statutory consultee comments are discussed in the summary below.

1.4. Consideration of this application concludes that the proposal would adversely impact upon the amenity of nearby residents, the visual amenity of the area and that there would be a lack of parking, space to serve the proposed use. The proposal would be contrary to adopted policy as noted below, and it is recommended that the application be **REFUSED**.

## **2. Site and Surrounding Area**

2.1. The application refers to an end of terrace/corner, commercial property, located at the junction of Watkin Lane with Hoghton Street. The property is in a mixed-use area but within Tardy Gate District Centre; designated under Policy E4 (District Centres) of the South Ribble Local Plan.

2.2. The ground floor of the property was formerly in retail use and is situated next door to a fish and chip shop and within a terrace occupied by 4 other retail properties; a self-contained residential flat occupies the first floor.

2.3. Facing are residential and commercial buildings, and the main part of Tardy Gate District Centre lies to the west of the site This area is separated from the applicant's property and adjacent streets by Croston Road; a busy, 3-way junction with pedestrian crossings. Hope Terrace 'pay and display' car park is behind Tardy Gate at a distance of some 110 metres.

2.4. Immediately to the rear is a back street/ginnel; beyond, and in the east are traditionally styled terraced streets. Access to/from these streets is limited as both Hoghton and Lindley Streets are bollard protected at the junction onto Watkin Lane.

2.5. Watkin Lane is a busy classified road. There are 'no waiting at any time' traffic restrictions in force on both sides of the road in front of the property, along Watkin Lane to the north west past Tardy Gate and in the south west (approximately 100m in either directions). Similar restrictions exist on Croston Road. Adjacent side streets are busy, and on-street parking is particularly difficult. During evening hours when business to a takeaway is expected to be busier, but residential parking spaces taken up, this lack of parking is likely be problematic There are no designated parking spaces for either the business or the existing residential property.

2.6. The first floor of the terrace appears to house self-contained flats; these were evident during a visit to the site. The yard to the rear is enclosed and although there is no permission or guard rail, the flat roof enclosure is noted on plans as a 'flat roof terrace'. Access is possible from the first floor flat.

### **3. Planning History**

3.1. There is a relevant planning history for this site is as follows:

- 07/1984/0593 - Change of use; 1st floor flat to retail shop – approved November 1984
- 07/1985/0033 – Shop extension – approved February 1985
- 07/1987/0612 – First floor kitchen extension – approved October 1987
- 07/1993/0606 - Single Storey Rear Extension and Alterations at First Floor – Approved October 1993
  
- 07/2012/0660/FUL - Change of use from existing Bait and Tackle shop to Hot Food Takeaway. Refused February 2013
- 07/2013/0564/FUL - Change of use from existing Bait and Tackle shop to Hot Food Takeaway (ground floor only) and alterations to front elevation. Refused October 2013
  
- Both applications refused for the following reasons
  - o Proximity (within 400m) of a school;
  - o Increased noise and amenity particularly during evening hours;
  - o Unsatisfactory provision for parking, turning, loading and unloading of vehicles as per adopted parking standards and lack of mobility, cycle or motorcycle storage areas;
  - o The property's location on a major traffic distribution road close to a busy junction and additional traffic activity associated with the proposed use combined with limited availability of nearby parking and servicing would be seriously detrimental to highway safety.

### **4. Proposal**

4.1. The application proposes a change of use from Retail (Class A1) to Hot Food Takeaway (Sui Generis), and installation of extractor flue.

4.2. The property has retail and storage space at ground floor, with a two bedroom flat at first (to be retained). The shop front wraps round to the side elevation facing Houghton Street.

4.3. A powder coated; black extraction flue was originally proposed on the side elevation, but this has been relocated to the rear from the flat roof to 1m above the eaves level of the two-storey element. Comparison is made to two similar flues which have recently been erected on the adjacent property in the same position but do not have planning permission. As such, this precedent cannot be taken into account, but it is clear that the character and visual appearance of the area suffers from what are large, incongruous structures in a prominent, open location.

4.4. Other than internal alterations to accommodate the hot food takeaway, no further external changes are proposed. The applicant has not applied for advertisement consent; this would be addressed at a later date should permission for change of use be granted.

4.5. The nature of the takeaway is not specified, but indicative opening hours of 4pm to 11.30pm seven days a week including Bank Holidays are given. Staff numbers have not been identified but the property size would be self-limiting in this respect.

4.6. The enclosed rear storage area could be used for storage of waste matter. As the pathway is not wide enough to accommodate commercial waste bins or used oil receptacles without restricting access, should permission be granted a condition to control waste storage on the pavement would be deemed appropriate

## **5. Summary of Publicity**

5.1. A site notice has been posted, and nine interested parties were consulted on two occasions; the second following amendments to relocate the flue. Ward Councillors Gabbott, Pritchard and Stringfellow have also been notified.

## **6. Letters of Representation**

6.1. Nine letters of objection have been received including one from the Ward Councillor which raise the following issues. One letter of support has also been received but with no supporting comments

- Cars already park on residential pavements and ignore formal traffic restrictions.
- Cumulative impact of night-time noise, smells and general anti-social behaviour.
- Lack of parking – both at the property or in surrounding residential streets, many of which are traffic restricted.
- Delivery drivers have nowhere to park.
- Concerns about noise from extraction systems, and potential for ‘substances’ to drip on pedestrians
- Lack of space for commercial waste storage
- If refused in 2012 why is it acceptable now?
- Increased road traffic resulting in highway safety issues.
- Encourages unhealthy eating – *‘look at the small village and fast food content of shops’*

Other comments which are not material planning considerations are:

- Respondent does *‘not want a takeaway at the end of the street’*
- Too many takeaways already

## **7. Summary of Consultations**

7.1. **Lancashire Constabulary** has recommended additional security measures. As these fall outside the remit of planning considerations they would be added as informative notes should permission be granted. No further reply received following second consultation.

7.2. **South Ribble Environmental Health** is concerned that the change of use has the potential to cause problems of odour/noise to nearby residential properties. The applicant has submitted information on the extract system to be fitted and the EHO has advised that this must be installed and cleaned/maintained as per the submitted FusionHot Ltd report. A condition to this effect would be proposed were it recommended that planning permission be granted. Following re-consultation comments remain the same.

7.3. **Lancashire County Councils Highways Team** is of the opinion that the proposal will not have a detrimental impact on highway safety and capacity in the immediate vicinity of the site.

7.4. As LCC’s response to earlier, similar proposals was to object, a second request was made to verify the response. LCC’s reply was

7.5. *‘I note you refer to Stewart Gailey’s letter of 2013, but this is not classed as recent, having been reviewed ten years ago and planning guidance has changed and is more in favour of development since 2013. I understand your concerns, however, this is a district centre location. In addition, there is an established hot food place next door to the proposed site. My issue is given this location, I am of the opinion that I could not support a highway objection at appeal based on current NPPF guidelines. I would not wish to make a*

*questionable objection that might fail at appeal and result in the award of costs to your council.*

*Obviously, there is scope for an objection based on amenity to local residents’.*

## **8. Policy Background**

### **8.1. Retail Policy**

8.1.1. Local Plan Policy E4 (District Centres): This proposal would be within the Tardy Gate District Centre. Policy E4 allows for new buildings, re-development, extensions and alterations to existing businesses where appropriate to town centre use, in order to protect and enhance the centre’s viability and vitality.

8.1.2. Where changes of use outside the retail and café/restaurant classes are proposed, these are supported but only where there is a minimum of 60% retail use retained in the District Centre, and where new uses will not harm the shopping offer. The latest South Ribble Retail Position Statement (Autumn 2022) finds that 78% of properties in Tardy Gate District Centre are in E class uses (formerly A1-A3 retail classes).

8.1.3. Core Strategy Policy 11 also supports retail and town centre uses in sustainable locations provided that the development respects the character of the retail centre and assists in maintaining its existing retail function. It aims to maintain, improve and control the mix of uses within the District Centre. This view is supported by the National Planning Policy Framework.

8.1.4. As the proposal would bring economic benefit to the area and would not reduce the shopping offer to less than 60% this proposal is compliant in purely retail terms.

### **8.2. Design**

8.2.1. Core Strategy Policy 17 (Design of New Buildings) and Local Plan Policy G17 (Design) – seek to ensure that development is well related to neighbouring buildings and the locality, that layout, servicing and parking arrangements are adequate and development would not prejudice highway safety. Policy 17 confirms that development should not result in demonstrable harm to the amenities of the surrounding areas and be sympathetic to surrounding occupiers and land uses

8.2.2. The property is close to other properties on all sides, and within a more remote part of the retail district, in an area that is predominantly residential in nature. Under normal circumstances, upgrade to the property would be likely to enhance the area, but none is proposed other than the large flue which would be visible from the streetscene in a prominent location. Visually the flue to the rear is unattractive, but it is acknowledged that the rear of the parade of shops is generally unkempt. Houghton Street however is tidier in appearance and it is for this reason that the proposed scheme would impact negatively on the character and amenity of the area and does not comply with Policy G17.

8.2.3. Odour pollution as a result of inadequately maintained extraction equipment is a potential issue in this location, although subject to conditions the proposed filtration system specifications are considered adequate.

### **8.3. Highway Considerations**

8.3.1. Local Plan Policy G17 also seeks to protect pedestrian and highway safety, whilst Policy F1 of the same document ensures parking standards adopted by the Council are maintained. Despite LCC Highways lack of objection on safety and capacity grounds, in this location existing, inadequate parking space already compromises the free flow of traffic with

a consequent loss of residential amenity. Additional traffic attempting to park in an area of traffic restrictions, high movement and in close proximity to a major junction will impact further.

8.3.2. Limited parking and servicing space surround the property – most of which is shared with other businesses and residential properties, which together with existing traffic restrictions, already impacts on the amenity of nearby residents and road users alike. This however needs to be taken in the context of the wider area where traffic movements already occur in large numbers, and where adopted policy aims to maintain not deter the shopping offer. Vacant premises such as this in a district centre do not accord with that policy aim and this must be balanced with the harm which might be caused by this proposal.

8.3.3. There are no parking spaces for staff or customers available within the site, but this is the case for most adjacent properties. Town centre parking is available but is pay and display at a minimum of 110m away. The convenience nature of this proposed use means it is unlikely that customers will park at such a distance, and whilst clients may walk to the shop or use public transport, this is likely to be only in small numbers. In reality, public transport offers limited option for take away users.

8.3.4. Many takeaways now employ delivery drivers. Delivery vehicles – assumed to be significant numbers as home delivery has increased in popularity - would need to approach from the already crowded, and bollard protected, residential streets at the rear. Parking is only available on streets to the rear - busy, terraced residential areas where parking spaces are already at a premium. During a daytime site visit, it was noted that nearly all available spaces were occupied. This would get worse at the end of the working day and weekends when trade for the proposed business is likely to be busier but residential occupants are at home. Given the location of the site, it is considered that the additional traffic movements and demand for on street parking which would be generated by the proposed development would have a detrimental impact on the amenity of residents surrounding the application site.

#### 8.4. Noise

8.4.1. In addition to reduced amenity from increased traffic as described above, it is also likely that noise from vehicular movements and from customers congregating in the vicinity of the takeaway would impact on neighbouring residents. During daytime hours use of the property for commercial purposes would be less impactful, particularly when read in the context of the existing well trafficked retail area. During evening hours however residents are more likely to be present and potentially disturbed by car doors slamming, vehicles manoeuvring and customers talking outside the takeaway. Given the close proximity of the application site to nearby dwellings, it is considered that the development would be likely to result in unacceptable levels of noise and disturbance to local residents.

#### 8.5. Previous relevant decisions

8.5.1. The Council has previously sought to refuse hot food takeaways in similar circumstances. In 2019 an application for change of use to hot food takeaway with first floor storage/staff use, erection of 500mm flue pipe and 300mm flow pipes, and installation of shop front was received in relation to a similar site in Bamber Bridge. The application was refused by this committee in October 2019 because ‘the proposal by virtue of lack of parking provision in the immediate locality would have a detrimental impact on the residential amenity of neighbouring properties, contrary to Policy B1 and Policy F1 in the South Ribble Local Plan’.

8.5.2. The proposal was thereafter dismissed at appeal (APP/F2360/W/19/3242046). The Inspector discussed highways amenity, and proximity of the property to residential premises at length and concluded that ‘the increased frequency and intensity of vehicular movements, particularly in the more residential areas and at quieter times of the day, would also result in

an increase in noise and disturbance. The manoeuvring of vehicles, revving of engines and slamming of car doors would contribute to the adverse effects on residential amenity. Therefore, the proposal would result in harm to the living conditions of nearby residential occupiers, with particular regard to the lack of adequate parking provision and consequent on-street parking pressure. It would conflict with the parking and residential amenity aims of Policies B1 and F1 of the LP. These require, among other things, that development in existing built-up areas complies with relevant parking requirements and avoids adverse effects on residential amenity'.

Whilst the current application site is not designated as built up area but instead forms part of a district centre, the sites are not dissimilar when viewed on the ground and have a similar relationship to residential properties. The appeal decision can therefore be considered a material consideration in the assessment of this application.

## **9. CONCLUSION**

9.1. The existing property is currently disused and as such impacts negatively on the neighbouring area. Its re-use would help to maintain the vitality and viability of the District Centre. However, the current proposal would have a harmful impact on the appearance of the streetscene and the amenities of nearby residents. On balance, and taking the above into consideration, the proposal is not considered to be acceptable and is **recommended for refusal**

### **RECOMMENDATION:**

Refusal.

### **REASONS FOR REFUSAL:**

1. The proposed extraction equipment would impact negatively on the character and appearance of the area and would not accord with Core Strategy Policy 17 or Policy G17 of the South Ribble Local Plan.
2. By reason of the increased noise and activity associated with a hot food takeaway, particularly during evening hours, and the additional demand for on-street car parking, the proposed change of use would be detrimental to the amenity of neighbouring residential properties. The proposal is therefore considered to be contrary to Core Strategy Policy 17 and Policy G17 of the South Ribble Local Plan

### **RELEVANT POLICY**

#### **NPPF National Planning Policy Framework**

##### **Central Lancashire Core Strategy**

- 11 Retail and Town Centre Uses and Business Based Tourism
- 17 Design of New Buildings
- 22 Biodiversity and Geodiversity

##### **South Ribble Local Plan**

- E4 District Centres
- F1 Car Parking
- G17 Design Criteria for New Development