

Application Number

07/2024/00110/FUL

Address

55 Liverpool Road

Penwortham

Preston

Lancashire

PR1 9XD

Applicant

Mr Andy Kirkham

Agent

Mr Khalid Khan

Majid House

109 Whalley Range

Blackburn

BB1 6EE

United Kingdom

Proposal:

Change of use of ground floor from retail (Class (e)) to a Hot Food Takeaway (sui generis) together with the installation of an extraction flue vent to rear

Case Officer

Mr Chris Sowerby

Date application valid

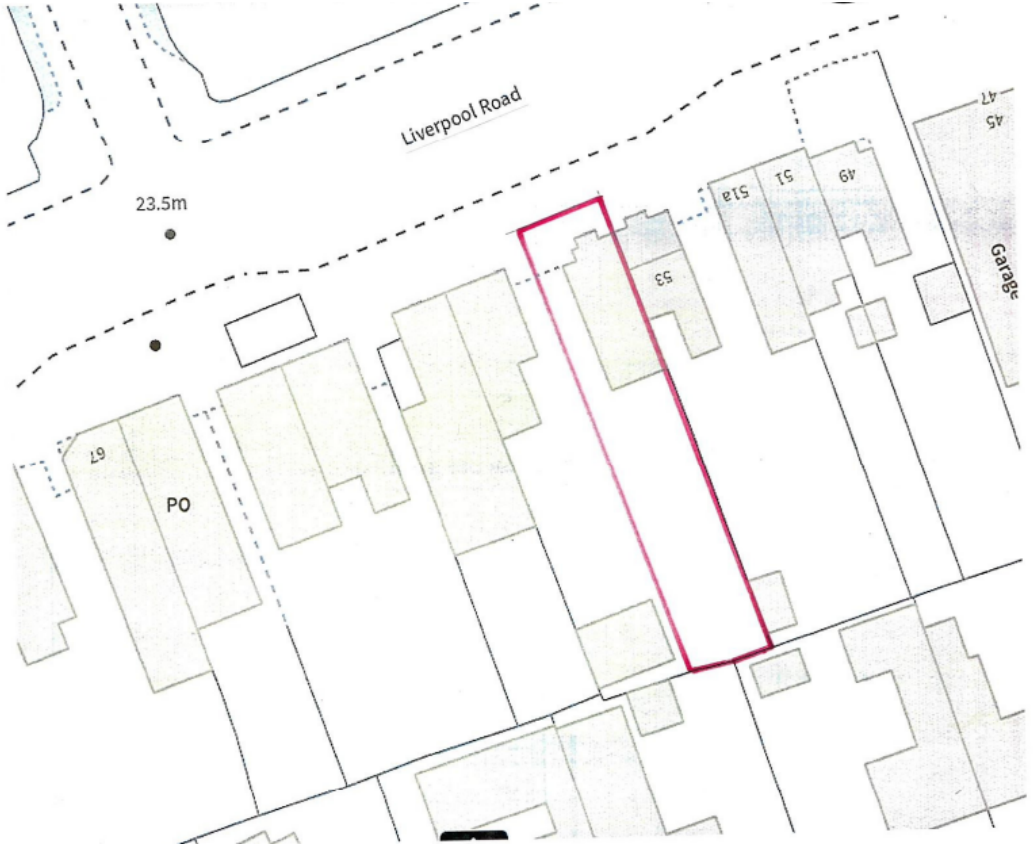
14.02.2024

Target Determination Date

26.04.2025

Extension of Time

26.04.2025



1.0 SUMMARY

- 1.1 There are no objections from any statutory consultees to the proposal.
- 1.2 The proposal accords with the NPPF and Policies 9 and 10 of the Central Lancashire Core Strategy together with Policies F1 and G17 of the South Ribble Local Plan.
- 1.3 The application therefore is recommended for approval subject to the imposition of conditions.

2.0 RECOMMENDATION TO PLANNING COMMITTEE

- 2.1 **That planning permission is GRANTED subject to the following conditions**
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3.0 THE SITE

- 3.1 The application relates to the ground floor of a two-storey, semi-detached, commercial premises which fronts Liverpool Road within Penwortham's District Centre.
- 3.2 The premises are currently vacant, having previously operated as an estate agent.
- 3.3 At first floor level is a taxi booking office, with the ground floor of the adjoining premises currently operating as a jeweller and a separate residential flat at first floor level.
- 3.4 A variety of commercial premises are present along Liverpool Road, with the 'Lime Bar Lounge' opposite. A vehicular access runs along the side of the premises which leads to a shared parking area, beyond which are the rear private gardens of residential properties on Rawstone Road.
- 3.5 The premises are within the policy designation of Penwortham District Centre (Policy E4) in the South Ribble Local Plan.

4.0 THE PROPOSAL

- 4.1 Planning permission is sought for the change of use of the ground floor from commercial, business and service (Use Class E) to a hot food takeaway (Sui Generis Use Class) together with the installation of a flue vent to the rear.
- 4.2 The proposed flue vent would have a diameter of 0.5m and measures 4.4m in length. The top of the flue would sit 2.1m below the main roof ridge. It is proposed that the flue be painted brown in colour.
- 4.3 The proposed hours of opening for the business are 11.00am to 10.00pm each day.

5.0 RELEVANT PLANNING HISTORY

- 5.1 07/2014/0203/FUL - Formation of new shop front, alterations to rear elevations including formation of ramped access. Approved

6.0 CONSULTEES

- 6.1 LCC Highways – no objection
- 6.2 Environmental Health – no objection subject to conditions
- 6.3 Lancashire Constabulary – no objection

7.0 OTHER REPRESENTATIONS

- 7.1 As of the 8th April 114 letters of objections have been received in relation to the proposal (including a number of multiple objections from the same households). Of the 112 objections received 14 have come from what can be considered as 'immediate neighbours', with the remainder from across Penwortham and Preston. A summary of the points raised follows:

- Appearance of extraction system
- Traffic and parking
- Odours
- Noise and disturbance
- Anti-social behaviour
- Inaccuracies on the extent of land ownership on the submitted plans (*note – amended plans have been submitted to rectify this*)
- Proposed business has poor hygiene reputation and will attract vermin
- Preference for independent businesses
- Area is already well served for fried chicken and takeaways
- Over proliferation of takeaways in the vicinity
- Unattractive signage
- Health and wellbeing and contrary to Access to Healthy Food SPD
- Devaluation of neighbouring properties
- Light pollution

1 letter of support has been received and 1 letter that provides a neutral response to the proposal.

8.0 SUPPORTING INFORMATION

- 8.1 Planning Statement
Odour Control Risk Assessment

9.0 RELEVANT PLANNING POLICIES

- 9.1 **NPPF**
Chapter 6 – Building a strong, competitive economy
Chapter 7 – Ensuring the vitality of town centres
Chapter 9 – Promoting sustainable transport

Policy 9 – Economic Growth and Employment
Policy 10 – Employment Sites and Premises

South Ribble Local Plan

Policy E4 – District Centres

Policy G17 – Design Criteria for New Development

10. ASSESSMENT

Principle of development

- 10.1 Policy E4 of the South Ribble Local Plan encourages a minimum of 60% of overall units within the District Centres, which includes Liverpool Road, Penwortham, to be in retail use (now Class E (a)). The Council's most recent Retail Position Statement (2023) identified 22% of units within Penwortham District Centre being in retail use, which is significantly lower than the 60% Local Plan target. However, shopping habitats have unquestionably changed since the adoption of the Local Plan in 2015 with Policy E4 not therefore reflective of the current issues facing district centres such as Penwortham.
- 10.2 The NPPF, which was first published in 2012, has however been regularly updated in response to issues and Government policy. Town centre strategies contained within the NPPF are therefore considered to be more relevant than aspects of Local Plan town and district centre policies which are more dated.
- 10.3 Whilst Policy E4 of the Local Plan is focused on achieving high levels of retail uses in (at least 60% of premises) in district centres, Paragraph 90 of the NPPF encourages town centres to be more diverse against a backdrop of the decline of retail in town centre locations. The NPPF encourages a range of uses in town centres and decision makers to respond to rapid changes in the retail and leisure industries.
- 10.4 Also, considering the premises have been vacant for a period in excess of 12 months with no apparent appetite for retail use, weight needs to be given to the proposed bringing of a long-term vacant unit back into use, with both the NPPF and Policy E4 seeking to improve town centre vitality.
- 10.5 Due to the current retail provision in Penwortham District Centre the proposed change of use of the premises from Class E, which includes retail, to a hot food takeaway contravenes Policy E4. The proposal is however considered to accord with the NPPF by achieving a mix of town centre uses and would enhance the vitality and viability of Penwortham District Centre by bringing a long-term vacant unit into use.
- 10.6 Weighing up the apparent lack of appetite in the market to bring a long-term vacant unit back into use within its current Use Class, together with up to date position on town centre strategies contained within the NPPF, officers are of the opinion that lesser weight should be given to the dated retail position provided in Policy E4 of the South Ribble Local Plan. Therefore, on balance, the principle of the proposed change of use is considered to be acceptable in land use planning terms.

Design/Layout

- 10.7 The only external change relates to the proposed flue vent on the rear elevation of the premise. With the top of the flue to site 2.1m below the main roof ridge the external change proposed to the premise would not have an adverse effect on the character and appearance of the area.
- 10.8 Objectors have raised concern regarding the potential for an overconcentration of similar uses, however none of the immediate neighbouring premises operate as a hot food takeaway. Papa Johns Pizza is present some 70m to the west and Little India is present some 70m to the east with intervening premises in a variety of uses. Given the context of the surroundings the proposal is not considered to result in overconcentration of similar uses to the detriment of the character and appearance of the area.
- 10.9 An objector has raised concern at the potential for unattractive signage being installed. Should any proposed changes to the signage on the business require advertisement consent an application will be required which will be considered on its own merit.

Impact on residential amenity

- 10.10 At first floor level is a taxi booking office, with the adjoining premise being a jeweller's shop. The nearest residential properties present on the opposite side of Liverpool Road are located along Queensway, some 70m from the application premise. A minimum distance of 45m is present to the rear elevations of the nearest residential properties to the rear on Rawstorne Road.
- 10.11 The proposed hours of opening for the business are 11.00am to 10.00pm each day which means the premise would close significantly earlier than drinking establishments within the immediate vicinity of the site. This can be secured by a suitably worded condition should planning permission be granted.
- 10.12 The submitted Odour Control Risk Assessment report for the proposed flue vent has been considered by Environmental Health who have are satisfied with the flue vent proposed and raise no objections to the application.

Highways

- 10.13 Neighbours have raised concerns in regards to traffic generation associated with the proposed change of use and parking.
- 10.14 The NPPF states within paragraph 115 "*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".
- 10.15 The current lawful use of the premises within the Class E Use Class permits a wide variety of potential commercial, retail, business and service uses. The premises is also within Penwortham District Centre.

County Highways have assessed the proposal and have raised no objections, stating *“the change of use in this district centre location should have a negligible impact on highway safety and capacity”*.

- 10.16 The application, as originally submitted, detailed the entire extent of the car parking area to the rear as forming part of the application site. The owner of an adjacent premise has presented evidence which suggests they own up to the centre line of the vehicular access to the shared car park to the rear. Whilst a historic agreement between the owners of the premises has allowed for the access to be used by the operators of both businesses, the owner of the adjacent premises has suggested it would be possible in theory for them to erect a form of boundary treatment along the line of their ownership which would restrict access to the rear car park. In response to this potential situation County Highways were asked to comment if their ‘no objections’ response was dependant on the availability of the use of the car parking area to the rear. County Highway subsequently responded stating:

“Notwithstanding onsite parking, the site has been utilised for retail without parking to the rear. Given the scattering of limited waiting bays along Liverpool Road, it’s sustainable in terms of pedestrian linkage, and along a regular bus route.

This is a district centre location, and I could not argue at appeal that this proposal would cause severe highway issues. Therefore, I cannot raise any objection that would satisfy the criteria for a highway refusal contained in the NPPF”.

Other matters

- 10.17 Neighbours have raised concerns in relation to the potential for anti-social behaviour associated with the proposed change of use. The proposed closing time for the hot food takeaway is significantly earlier than drinking establishments within the immediate vicinity of the site which reduces the potential for large gatherings. The Crime Prevention Officer at Lancashire Constabulary has also been consulted on the proposal and has raised no objections. A number of crime prevention recommendations have made by Lancashire Constabulary, these have been forwarded to the applicant.
- 10.18 A number of objections received relate specifically to the ‘Chesters Chicken’ business. The history of the applicant, and any other matter relating to other premises of the same business, are however not material planning considerations. The change of use proposed could be operated by any hot food takeaway and would not be a personal permission for a ‘Chesters Chicken’.
- 10.19 Preference has been stated by objections for the premises to be operated by an independent business however no such requirement exists in any local or national planning policies.
- 10.20 It has also been suggested by objectors that the area already is well served for fried chicken and takeaways. The fact that similar businesses are present within the locality, in itself, is not a material planning consideration that can justify the refusal of a planning application.

- 10.21 Concerns raised by objectors alleging the potential for the devaluation of neighbouring properties is also not material planning consideration.
- 10.22 Reference is also made in some objections to the to Access to Healthy Food SPD which was adopted in 2012. However, after the examination into the Local Plan in 2015, as elements of the SPD were found not to be robust by the Inspector, use of the SPD was suspended.
- 10.23 A neighbour has raised concern at the potential for light pollution from the potential installation of security lighting. Any issues from lighting installed can be report to Environmental Health for investigation as an alleged statutory nuisance.

11. CONCLUSION

- 11.1 The principle of the proposed change of use is considered to be acceptable in planning land use terms, according with the requirements of the NPPF.
- 11.2 The proposal would not have a detrimental impact on the character and appearance of the area and is not considered to impact on the amenities of neighbouring residential properties.
- 11.3 There are no objections from any of the statutory consultees to the proposal.
- 11.4 The proposal accords with the NPPF and Policies 9 and 10 of the Central Lancashire Core Strategy together with Policies F1 and G17 of the South Ribble Local Plan. The application is therefore recommended for approval subject to the imposition of conditions.

12. RECOMMENDATION

That planning permission is GRANTED subject to the following conditions:

1. That 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.
2. The development, hereby permitted, shall be carried out in accordance with the submitted approved plan Dwgs ref. 'Existing Site Plan' and '008/02/24/55/@A1'.

REASON: To ensure a satisfactory standard of development in accordance with Policy 17 in the Central Lancashire Core Strategy and Policy G17 in the South Ribble Local Plan 2012-2026.

3. The use hereby approved shall not open to the public outside the hours of 11:00 and 22:00 hours on any day.

REASON: In the interests of the amenity of the nearby residents in accordance with Policy 17 and 28 of the Central Lancashire Core Strategy and Policy G17 in the South Ribble Local Plan.

4. The extract system should be installed and maintained as per the submitted PCM EMAQ report dated 19/5/23.

REASON: To safeguard the amenities of neighbouring properties in accordance with Policy 17 of the Central Lancashire Core Strategy and the NPPF.