

Application Recommended for Approval
Gannow Ward

APP/2009/0628

Full Planning Application
Proposed change of use of former Post Office to a Hot Food Takeaway
112 GANNOW LANE BURNLEY

Background:

The application is to use the building as a hot food takeaway (Use Class A5).

Objections and support have been received.



Proposed change of use to hot food takeaway (Use Class A5)

Summary of Reason for Recommendation:

The development is generally in accordance with the Development Plan, in particular the policies listed below, and there are no other material considerations to indicate that planning permission should not be granted:

Relevant Policies:

Burnley Local Plan Second Review:

GP1 - Development Within the Urban Boundary

GP3 - Design and Quality

CF13 - Restaurants, Cafes, Public Houses and Hot Food Takeaways

Site History:

12/89/0833 - Change of use from vacant shop (Class A1) to shop for the sale of hot food (takeaway) (Class A3 *now* A5) (Opening hours Mon-Sat 11:30am - 1pm and 4:30pm - 6pm) and including formation of new doorway to Dickson Street - Recommended for Approval, Refused at Committee

12/89/0353 - Change of use from vacant shop (Class A1) to shop for the sale of hot takeaway food (Class A3 *now* A5) - Refused under Delegated Powers

12/85/0556 - Use of premises as grocers shop (Permitted Development)

Consultation Responses:

Environmental Health:

Details of the fume extraction system serving the cooking and / or food preparation areas shall be designed such that there will be no odour or noise nuisance to local premises and shall be approved in writing by the Local Planning Authority prior to the development taking place. The approved system shall be installed and shall be used at all times when the premises are used for cooking or preparing foods. The system shall be maintained and serviced in accordance with manufacturers recommendation.

The final stack height shall be 3ft above the roof height to disperse the residual odours and the terminal shall have no cap or cowl that will restrict air flow.

Reason: To safeguard the local environment from potential odour and noise nuisance.

27 emails / letters from local residents including those in the adjoining property, supporting the proposal on the following grounds:

- The property has been vacant for a long time and re-opening it as a takeaway would benefit the area and would be a better alternative than a derelict property which is an eyesore
- There is no takeaway in the area and the proposal would serve the local community and is in high demand in this area

- It will be within walking distance and will overcome the need to pay additional costs for delivery from takeaways elsewhere in the town
- The proposal would be an asset to the local area

1 petition with 655 signatures supporting the takeaway for the above reasons.

3 local residents / councillor emails / letters objecting on the following grounds:

- Fly tipping and litter is a problem in the area and the proposal would add to the litter problems
- Parking is bad at times in the area and the proposal would exacerbate this. There is a 20mph zone due to previous accidents and the proposal could increase this risk
- The area has a high level of anti-social behaviour and the proposal could heighten this by way of loitering and youths gathering around the proposal, particularly late at night
- The proposal would add nothing positive to the area and could risk the quality of life for local people already faced with significant social problems

Planning and Environmental Considerations:

The proposal is for the change of use of the property to a hot food takeaway (Use Class A5). The last known use would appear to be a post office, although the property has remained vacant for a number of years.

The existing boarded up shop front and entrance would be refurbished and re-used. No new entrances are proposed on the Dickson Street elevation.

The main issues to consider are the suitability of the site for the proposal; the amenities of neighbouring properties; traffic / parking and anti-social behaviour such as littering, noise and unwanted congregation.

Policy CF13 of the Burnley Local Plan advises that proposals for hot food takeaways should be located within town, district or local centres. Whilst the area is not defined as a local centre within the Burnley Local Plan, there is an existing convenience store / off-licence along with two public houses in the immediate vicinity. The site therefore has a heightened level of activity somewhat similar, albeit not as intensive, to a defined local centre, particularly when compared to a purely residential area.

Whilst I agree that in most circumstances, a takeaway outlet should be located in a local centre (or district or town centre), given the existing non-residential uses in the local vicinity and the level of activity as a result of these, I feel that it would be difficult to defend a refusal simply on the grounds that the proposal does not lie within a defined centre.

The property is an end-terraced property fronting Gannow Lane. Immediately opposite lies the convenience store, and attached to one side of this lies a terrace of residential properties. On the eastern side of the site, across a back street, lies a public house. On the western side of the application site, across Dickson Street lies a terrace of residential properties. To the rear of the application site lies Dickson Street itself, and one dwelling is attached to the application property.

The application property is conveniently positioned in that it is detached from any remaining surrounding properties with the exception of the attached neighbouring dwelling on Dickson Street. The proposed extraction flue would be positioned within the existing outrigger which lies alongside Gannow Lane and does not abut the rear of no. 2 Dickson Street. Environmental Health has recommended stringent instructions with regard to the extraction system to ensure that neighbouring properties, in particular no. 2 Dickson Street, are not affected by way of odours or noise any more than the absolute minimum.



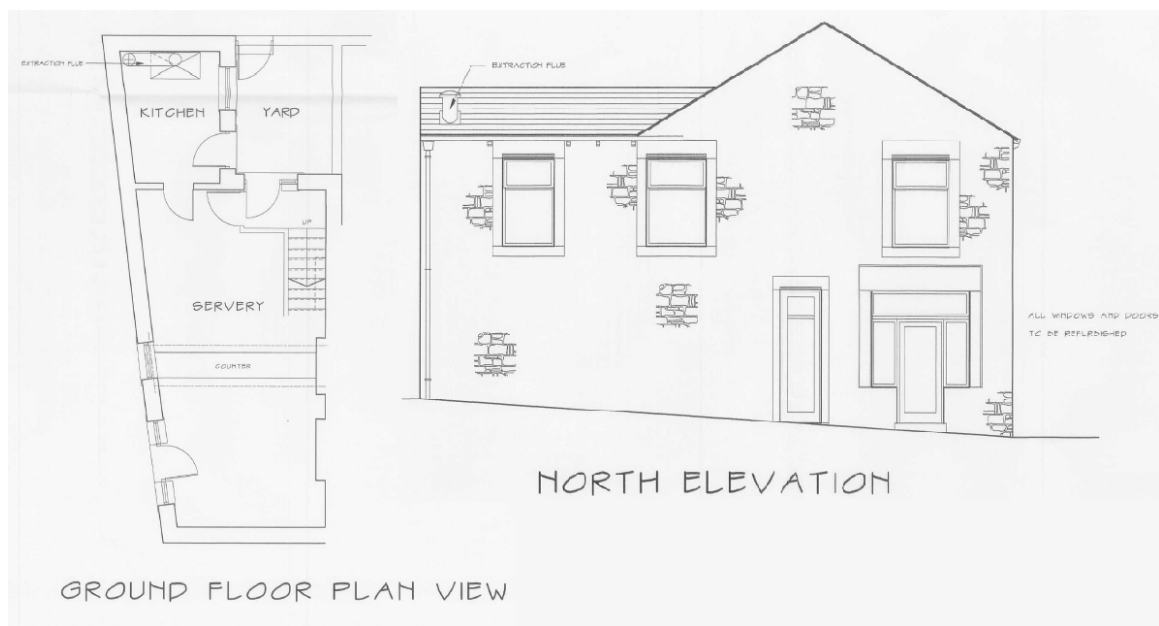
No entrances proposed to Dickson Street elevation

No. 2 (Dickson Street)

In terms of the general activity such as noise generated as a result of the proposal, no entrances are proposed on Dickson Street and the entrance for the proposed takeaway would be from Gannow Lane. This concentrates any activity associated with the use of the takeaway to Gannow Lane, where a notable level of activity is already in place due to the existing public house alongside and

convenience store opposite, rather than Dickson Street itself, which consists of residential properties only.

The remaining residential properties in the vicinity would be no nearer to the takeaway than either the existing public house or convenience store. Whilst it can be perceived that the proposal would increase activity in the immediate area, it would be difficult to show that the proposed use would directly impact on the residential amenity of the surrounding properties over and above the existing commercial uses that the surrounding dwellings can expect, and to some extent accept, in living in such an area where activity is above that usually found in purely residential settings. On this basis, after careful consideration and bearing in mind the configuration of existing properties and uses, I do not feel that the proposal would adversely affect the amenities of neighbouring properties to an extent in which a refusal of planning permission would be warranted and defensible in an appeal.



A remarkably high amount of support has been received from the local area for the proposed takeaway, mainly on the grounds that there is no such outlet in the vicinity and demand for such a use is very high. The weight applied on comments received for a proposal should not be relied upon purely on the amount of objections or support received. The high level of support received should be noted however to be indicative of the demand for such a use in the area. At the same time, an albeit lesser number of objections have been received which outline concerns regarding the potential social repercussions resulting from the introduction of the proposed use and these show that such issues are plausible concerns in the area.

The existing circumstances of the application property, and the end-result the proposal would bring should be compared carefully. At present, the property is boarded up and derelict and can be attributed to deprivation in the area. The proposal, which would bring a unit back into use, also brings with it the possibility of attracting anti-social behaviour by way of littering, youths gathering, and general resistance to associate with the area at certain times of the day. Whilst a definitive measurement of these end results is impossible to determine or predict, an assessment should be made on the perceived outcomes of the change of use.



Adjacent Public House

Previous appeal case information reiterates that it is extremely difficult to prove that a proposed use would generate noise and activity from congregation outside the premises, and that each application should be determined on its own individual merits and bearing in mind the disposition of surrounding buildings. The disposition of the surrounding buildings has been explained above and it generally is favourable to the proposed use. In addition to noise and disturbance concerns, a heightened objection which is occasionally leveled at take-away uses is that they would be a focus for public disorder/criminal behaviour. Such allegations are often made where there is close proximity to a public house, as is the case in this instance. Such hypotheses are extremely difficult to sustain as material considerations which would determine a refusal, and I agree with an

Inspector dealing with an appeal for a takeaway in similar circumstances that there are adequate powers in place for the police or any other authoritative bodies to take action if such occurrences took place.

The applicant has also explained that there will be CCTV operating from within and outside the premises. Such measures are likely to assist in deterring any potential anti-social behaviour. Arrangements can be made with regard to providing suitable litter disposal.

After consideration, I feel that there is insufficient evidence to indicate clearly that the proposed use would result in a direct increase in anti-social behaviour at a degree not found at present. It would be extremely difficult to defend an appeal on the grounds of the possible after effects of a proposed use.

In terms of on-street parking and traffic, the Highways Engineer has confirmed that there are no objections from a highway perspective. The proposed use is likely to serve the local area and it is unlikely to generate a notable level of traffic given the high density of residential properties in this part of the town. There are no Traffic Regulation Orders in place on this part of Gannow Lane and whilst I appreciate that at times this particular stretch of Gannow Lane can become busier, I do not agree that traffic will reach an uncontrollable and unacceptable level purely as a direct result of the opening of the takeaway.

In conclusion, I acknowledge that there is a general perception that hot food takeaways bring with them heightened levels of anti-social behaviour, noise and other unwelcome activity associated with the use. However, these social attributes are always difficult to measure accurately and definitively within the development control domain. The proposal is in my view finely balanced, but on the basis that there are separate powers to deal with anti-social behaviour, not only in relation to the proposed takeaway, but within the local vicinity as a whole, I feel that the proposal falls within the margins of acceptability.

Recommendation: That planning permission be granted subject to the following conditions:

1. The development must be begun within three years of the date of this decision.
2. The premises shall not be open for business outside the hours of 11:00am to 11:00pm Monday to Sunday and Bank Holidays
3. Before the use commences a scheme for the provision of appropriate litter containers and the litter management of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved and thereafter carried out in accordance with the approved scheme to the satisfaction of the Local Planning Authority

4. Before the use commences precise details of the fume extraction system and preparation areas shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the flue stack being at least 1m from the roof plane and the terminal shall have no cap or cowl that will restrict air flow.
5. No development shall start until a scheme for the noise insulation of the party wall between no. 112 Gannow Lane and no. 2 Dickson Street has been submitted to and approved in writing by the Local Planning Authority.

Reasons:

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To control the hours of opening in the interests of residential amenity in compliance with policy CF13 of the Burnley Local Plan Second Review.
3. To ensure that litter resulting from the use of the site does not become a source of nuisance for neighbouring residents or detrimental to the amenity of the area, in compliance with policy CF13 of the Burnley Local Plan Second Review.
4. To ensure that adequate fume extraction is implemented to safeguard neighbouring properties from an unacceptable level of noise or odours, in compliance with policy CF13 of the Burnley Local Plan Second Review.
5. To ensure that no. 2 Dickson Street is adequately safeguarded from noise generated as a result of the proposed use, in compliance with policy CF13 of the Burnley Local Plan Second Review.

BS 15/12/2009