

Application reference number	2025/0914
-------------------------------------	-----------

Application Type	Full planning permission
-------------------------	--------------------------

Proposal Description:	Change of use from former Community Hall/Church (Use Class F1/F2) at ground floor to 2x commercial units comprising a hot food takeaway (Use Class Sui Generis) and a flexible commercial unit (Use Class E); including internal alterations, installation of two new shop fronts to front elevation, extraction unit to side elevation and associated alterations.
Location:	5 Warren Quarry Lane, Worsbrough Common, Barnsley, S70 4NF

Applicant	Mr Aziz Khan
------------------	--------------

Number of Third Party Reps	Six	Parish:	n/a
		Ward:	Kingstone

SUMMARY

The proposal seeks full planning permission for the change the use of a former community hall (at ground floor) to 2 commercial units, one to be used as a hot food takeaway and the other as a flexible commercial unit falling within Class E. (The premises were formerly a public house). In addition, internal and external alterations are proposed including installation of two new shop fronts and an extraction unit to the side elevation of one of the units.

The report demonstrates that the proposal is contrary to national and local policies which seek to protect public health, residential amenity and highway safety considerations. This harm is not outweighed by any other material planning considerations.

Recommendation: **REFUSE Planning Permission**

Introduction

The proposal seeks full planning permission for the change the use of a former community hall (at ground floor) to 2 commercial units, one to be used as a hot food takeaway and the other as a flexible commercial unit falling within Class E. (The premises were formerly a public house). In addition, internal and external alterations are proposed including installation of two new shop fronts and an extraction unit to the side elevation of one of the units.

The application site is designated Urban Fabric in the adopted Local Plan where policy GD1 indicates that proposals for development will be approved subject to criteria including that

there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents.

The applicant has been advised of the concerns expressed by Pollution Control, Highways DC and Public Health officers, and of the conflict with national and local hot food takeaway and public health policy and that the application would be recommended for refusal. No response to this has been received.

Site Description

The application site consists of the ground floor of the building, which has been used at ground floor only most recently as a church. The application is clear that no alterations or change of use is proposed to the first floor which is occupied as a flat. The building has forecourt parking for two vehicles and access to the rear of the premises from a back alley off Middlesex Street.

The application site has a residential neighbours to the east (bungalows) and commercial neighbours to the west (universal appliances, repairing and retailing kitchen appliances). The area is otherwise wholly residential.

The application site is located just off Park Road. There is a bus stop immediately outside the application site and a further one on the other side of the road around 25 metres from the application site and outside Warren Quarry Lane Green Space where there is an equipped play area. Further up the road, around 155 metres from the application site, is Worsbrough Common Community Centre. Further away at around 270 metres from the application site but still in walking distance is Barnsley College Park Road Campus.

Proposal

This application seeks full planning permission to change the use of a former community hall (at ground floor) to 2 commercial units, to be used as a hot food takeaway and for a flexible commercial unit falling within Class E. (The premises were formerly a public house). In addition, internal and external alterations are proposed including installation of two new shop fronts and an extraction unit to the site elevation of one of the units. It is also indicated that the rear yard will be used for parking two vehicles with access off the back alley off Middlesex Street.

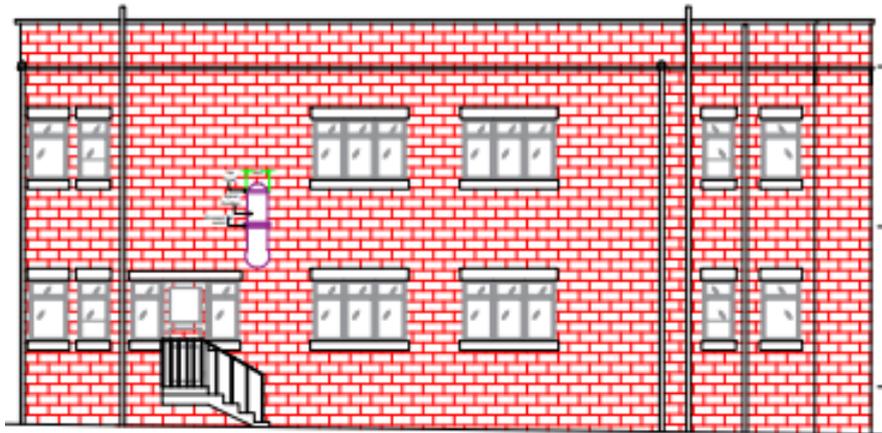
At a recent site visit, the external alterations were already underway with one shopfront and both shutter boxes installed.

The application is supported by a Design and Access Statement which confirms that the takeaway unit opening hours will be Monday to Saturday 11:00 to 23:00 and Sunday and Bank Holiday 12:00 to 22:00; and that no opening hours are proposed for the second commercial unit at this stage.

Proposed front elevation



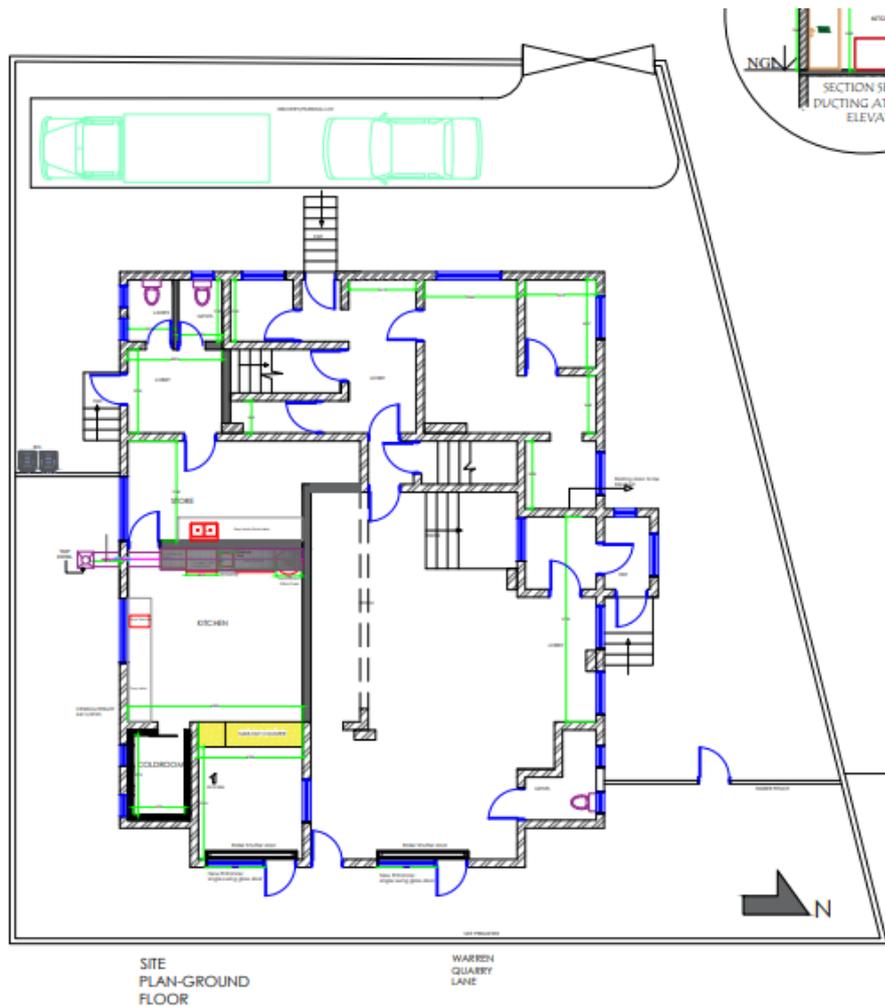
Proposed side elevation showing siting of proposed ducting



Location Plan extract



Proposed layout plan



Relevant Site History

Application Reference	Application description	Status
2016/1482	Change of use from Public House (Class A4) to Community Church (Class D1)	Granted

Policy Context

Planning decisions should be made in accordance with the current development plan policies unless material considerations indicate otherwise; the National Planning Policy Framework (NPPF) does not change the statutory status of the development plan as the starting point for decision making.

The Local Plan was adopted in January 2019 and is accompanied by seven masterplan frameworks which apply to the largest site allocations (housing, employment, and mixed-use sites). In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies which are a material consideration in the decision-making process.

The Local Plan review was approved at the full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means, no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027, or earlier, if circumstances require it.

Local Plan

The site is identified as Urban Fabric within the Local Plan and as such the following policies are considered to be relevant to this application:

- Policy GD1: General Development
- Policy D1: High Quality Design and Place Making
- Policy SD1: Presumption in Favour of Sustainable Development
- Policy T3: New Development and Sustainable Travel
- Policy CL1: Contaminated and Unstable Land
- Policy POLL1: Pollution Control and Protection
- Policy TC1: Town Centres
- Policy TC5 Small Local Shops

Adopted Supplementary Planning Documents relevant to this application:

- Parking, November 2019
- Sustainable Travel, July 2022
- Shop Front Designs, May 2019
- Hot Food Takeaways, May 2019
- Hot Food Takeaways (Planning Advice Note) May 2019

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. NPPF policy of relevance to this application includes:

Section 7 – Ensuring the Vitality of Town Centre

Section 8 – Promoting Healthy and Safe Communities

Section 9- Promoting Sustainable Travel

Section 11- Making Effective Use of Land

Section 12- Achieving Well-designed Places

Relevant Consultations:

Biodiversity- no objection, the proposals meet the de minimis exemption

Highways DC – Recommend defer for further information.

Public Health – Object

Pollution control – Recommend defer for further information

South Yorkshire Mining Advisory Service – No objection

Ward Councillors – no comments received

Representations

Neighbour notification letters were sent to 42 surrounding properties, a site notice was placed nearby.

Six representations were received which raised the following material planning issues:

- Impact on **highway safety** from the lack of on street parking from tea-time until the early hours of the morning, in a location where nearby dwellings lack off street parking and double parking is a severe issue. Additional short term parking, delivery vehicles and increased footfall can't be supported by the current infrastructure. Safety risk close to a major road and junction. Delivery and parking to the rear looks too tight which means that it will all be focused on the front.
- Impact on **residential amenity** from the opening hours which are too late and will result in a lot of noise and traffic to the area that will disrupt local residents and lack of opening hours for the second unit. Impact of noise, litter and congestion would be detrimental to residents. Impact on the flat above including noise, odour, fire risk and internal alterations that remove the only safe access to the flat in conflict with local plan policy, building regulations, Equality Act and NPPF. Loss of private garden to flat above.
- Impact on **public safety and wellbeing** from the proximity to children's play park, disable housing and a school bus stop. Introducing a commercial outlet in this location which would significantly increase traffic, roadside activity and parking pressure would pose serious risks to child safety, accessibility for disabled residents and the overall wellbeing of the community
- Impact on **Equality Duty** in relation to disabled resident of the upstairs flat and elderly and disabled residents of nearby dwellings.
- Impact on **children and young people** as the bus stop outside services a secondary school, there is a playground directly opposite and a primary school within walking distance.
- A location in Barnsley Town Centre/the Glassworks would be more appropriate for the applicants businesses.
- Concern that work has already started to alter the building in disregard to planning rules, raising concerns about how the takeaway would be managed long-term.
- Lack of management, waste and litter plans.

The following matters were also raised, however these are not material planning considerations and as such are afforded no weight:

- Effect on house value

Assessment

The main issues for consideration are as follows:

- The acceptability of the development in principle
- The impact on public health
- The impact on neighbouring residential properties
- The impact on the highway network and highways standards
- The impact on visual amenity
- The impact on the stability of the site
- Other issues

For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale unless the NPPF establishes a specific weight:

- Substantial
- Considerable
- Significant
- Moderate
- Modest
- Limited
- Little or no

Principle of development

The application site was last used as a church. The proposed uses are main town centre uses. National and local planning policy indicates that new main town centre uses should be located within a designated town centre unless it can be demonstrated that there is not a sequentially preferable location for the proposed development. The application is not supported by a sequential assessment and it has therefore not been demonstrated that there is not a sequentially preferable location for the proposed development. Local Plan policy TC5 Small Local Shops allows for small shops outside existing centres that meet the daily shopping needs of a local community, but there is nothing to indicate that the proposed retail units have been designed to meet daily shopping needs, nor is it accepted that a hot food takeaway would meet daily shopping needs.

In addition, the Hot Food Takeaways SPD states that the protection of the living conditions of nearby residents will be a significant issue when considering applications for hot food takeaways; and that it is recognised that hot food takeaways pose particular difficulties because activities are often at their peak in the evening and late at night when background noise levels tend to be low, and the disturbance that can be caused by traffic and car parking should not be underestimated. It concludes that planning permission for hot food takeaways is, therefore, unlikely to be granted where premises are located outside of defined shopping centres or concentrations of shops, or where the living conditions of occupants of nearby residential accommodation would be significantly effected; and that in particular, planning permission is likely to be refused where premises share a party wall with an adjoining house. The application site is not in a defined shopping centre or concentration of shops, is in a predominantly residential area and there is a flat at the first floor of the premises, and the following analysis concludes that the proposal will significantly affect the living conditions of nearby residents.

It is concluded that the principle of development is not acceptable and the proposal conflicts with Local Plan policies TC1, TC5, Poll1 and this is afforded significant weight against the proposal.

Public Health

Paragraph 96(c) of the NPPF states planning decisions should enable and support healthy lives through promoting good health for example through the provision of healthier food.

Paragraph 97 states that local planning authorities should refuse applications for hot food takeaways and fast-food outlets:

- a) within walking distance of schools and other places where children and young people congregate unless the location is within a designated town centre; or

- b) in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social behaviour.

The adopted Hot Food Takeaway Public Advice Note (PAN) states: *Outside District or Local Centres, proposals for Hot Food Takeaways within 400m of a secondary school or Advanced Learning Centre (ALC), will have regard to guidance from Public Health England on the link between childhood obesity and proximity to Hot Food Takeaways.... consideration will be given to levels of excess weight of 10-11 year old pupils... Proposals for hot food takeaways within a ward where more than 32% of 10-11 year old pupils are classed as having excess weight are therefore more likely to be in conflict.'*

The application site is within walking distance of bus stops which serve a local secondary school; and of areas of greenspace which include equipped play areas; and of a community centre; and of Barnsley College Park Road Campus. It is concluded that the proposal conflicts with paragraph 97(a) of the NPPF. The application site is in Kingstone ward where 30.8% of 10-11 year olds are classed as having excess weight and there is therefore no evidence judged against the PAN that levels of excess weight or obesity would indicate the proposal is in conflict with paragraph 96(c) of the NPPF. The PAN indicates that there are 11 hot food takeaways in Kingstone Ward which is just under the average number of hot food takeaways for any ward in the borough (11.76), based on 2018 data. The addition of another hot food takeaway in Kingstone Ward would mean that the total number of HFTA in the ward would exceed the new average for any ward (11.8), which suggests that the proposal would contribute towards an over proliferation of hot food takeaways in the ward.

Reflecting advice from Public Health, it is considered that the proposal conflicts with national and local policy in relation to public health and this carries substantial weight against the proposal.

Residential Amenity

The Pollution Control Officer has recommended that the application is deferred for amends/further information. They expressed concern that insufficient information has been submitted to determine whether there is likely to be an adverse impact on those living and/or working in the locality. A Noise Impact Assessment is required to assess the likely impact of external plant; and an Odour Assessment will be required to show how odour from the hot food takeaway will be mitigated and it appears that the ducting shown on the proposed plan is too short and terminates close to a first floor window; and no information is provided about the proposed flexible commercial Class E unit which has the potential to cause noise and/or odour issues. The applicant has been advised of these concerns but has not responded.

For these reasons, and as set out above under the principle of development, the proposal is considered to conflict with Local Plan policies GD1 and Poll1 and the Hot Food Takeaways SPD for which significant weight against the proposal has already been established.

Visual amenity

The application proposed external alterations including two new shopfronts with shutters and an extraction unit to the side elevation. The shopfronts have been created by deepening the existing window openings and are considered to be acceptable and the shutters as fitted have a black and red finish, the red appearing rather strident but not unacceptable in appearance. The extraction unit would not be sited in a prominent location and would be on the elevation facing commercial neighbours. It is concluded that the design of the proposed alterations is acceptable and in compliance with Local Plan policy D1 and the SPD Shopfront Design and attracts modest weight in favour of the proposal.

Highway Safety

NPPF Paragraph 116 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Local Plan Policy T3 states that new development will be expected to be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cyclists.

Table 1 of the Parking SPD (November 2019) sets out the adopted parking standards for new developments.

The Highways DC Officer has reviewed the application submission and noted that the immediate area is predominantly residential in character, with traditional terraced dwellings opposite that rely entirely on on-street parking, a bus stop directly outside the frontage and no provision for parking, servicing or delivery activity. They go on to expressed concerns that the absence of any allocated parking or designated servicing area raises concerns regarding the potential for vehicles associated with the businesses to stop on the carriageway or in close proximity to the bus stop, obstructing sightlines and impeding the free flow of traffic. The proposed hot food takeaway is likely to generate short-term parking and delivery activity during evening periods when on-street parking demand from local residents is already at its highest. This could exacerbate existing parking pressures to the detriment of highway safety and residential amenity. The applicant has been recommended to undertake a parking survey to provide clear and evidence based assessment of the current parking situation. Pending submission of such evidence, concerns are expressed that the proposed development could result in unacceptable on-street parking resulting in highway safety implications.

The applicant has been advised of the Highway DC Officer comments but has not responded. In the absence of evidence of the current parking situation, there is an objection to the potential for unacceptable on-street parking resulting in highway safety implications, which is given significant weight against the proposal. As such the proposal is contrary to Local Plan Policy T3 New Development and Sustainable Travel, the Parking SPD and National Planning Policy Framework paragraph 116.

Site stability

The South Yorkshire Mining Advisory Service (SYMAS) advises that while the proposed development is located within a Mining Remediation Authority High Risk Planning Referral Area, since the proposal involves a change of use and alterations with no/minimal ground works, the application is considered exempt from the Coal Mining Risk Assessment requirements. SYMAS confirmed that they have no objections to the proposal subject to including informatives relating to Mining Remediation on the decision notice if planning permission is granted. It is concluded that the proposal is in compliance with Local Plan policy CL1 and attracts limited weight in favour of the proposal.

Any Other Material Planning Considerations

Due regard has been had to the matters raised by the occupants of the flat above however given the recommendation to refuse planning permission, the interests of residents of the flat above or nearby have not been harmed.

PLANNING BALANCE & CONCLUSION

In accordance with Paragraph 11 of the NPPF the proposal is considered in the context of the presumption in favour of sustainable development. The proposal is not considered to be located within a sustainable location on a site suitable for the development proposed and this weighs significantly against the application. In addition there are objections in relation to public health, highway safety and residential amenity which weigh against the application. While the proposal has economic benefits and will bring a vacant building back into use, these considerations do not outweigh the objections to the application

Having balanced all material planning considerations, a number of objections have been received in respect to the proposal that have not been suitably addressed through the information supplied. The proposal is considered to conflict with the development plan as a whole and the objections to the proposal outlined above are not outweighed by any positive aspects of the proposal.

RECOMMENDATION

REFUSE PLANNING PERMISSION

REASONS

The proposed development includes a hot food takeaway within walking distance of an equipped play area, a community centre and a satellite college building, all locations where children and young people will congregate and outside of a designated town centre. This is contrary to policy at National Planning Policy Framework paragraph 97(a) and the adopted Hot Food Takeaways Planning Advice Note

The application lacks evidence in the form of a parking survey to demonstrate that the proposal would not cause a parking problem. The proposal would be likely to result in additional traffic movements and parking on a street where parking is already at a premium, especially in the evening hours when the proposed businesses are most likely to be operating and busy. This parking would be likely to result in parking and delivery activity in close proximity to a bus stop, obstructing sightlines and impeding the free flow of traffic and compromise the safe and efficient operation of the highway, contrary to Local Plan Policy T3 New Development and Sustainable Travel, the Parking SPD and National Planning Policy Framework paragraph 116.

The proposal will result in the operation of businesses in a predominantly residential area that will be likely to cause unreasonable levels of noise and disturbance to local residents arising from customers and delivery services arriving on foot and by car/motorbike, as well as from the operation of the businesses late into the evening. In addition, the application lacks evidence to demonstrate that noise and odour from the proposed hot food takeaway and its extraction unit and ducting will not cause harm to the amenity of local residents. For these reasons the proposal is contrary to Local Plan Policy Poll1 and GD1 and the adopted Hot Food Takeaways SPD

The proposal lacks a retail sequential assessment to demonstrate that there is not a sequentially preferable location for the proposed uses as required by Local Plan Policy TC1 and policy at National Planning Policy Framework paragraph 91, or any submission that the proposed uses would confirm to Local Plan policy TC5 Small

Local Shops. In the absence of this evidence, the proposal is contrary to these policies.

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

The above objections, consideration and resulting recommendation have had due regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

In dealing with the application referred to above, despite the Local Planning Authority wanting to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application, in this instance this has not been possible due to the reasons mentioned above.