

<b>Application Reference Number:</b>	2026/0077.
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<b>Application Type:</b>	<i>Change of Use.</i>
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<b>Proposal Description:</b>	<i>Change of use of existing outbuildings within the residential curtilage of a dwellinghouse (Use Class C3) to facilitate a small-scale, home based food production and delivery business (Sui Generis), operating ancillary to the residential use (Retrospective).</i>
<b>Location:</b>	<i>19 Redhill Avenue, Kendray, Barnsley, S70 3LA.</i>

<b>Applicant:</b>	<i>Mr Rafal Kowalski.</i>
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<b>Third-party representations:</b>	<i>None.</i>	<b>Parish:</b>	
		<b>Ward:</b>	<i>Stairfoot.</i>

<p><b>Summary:</b></p> <p>This planning application seeks retrospective planning permission for the change of use of existing outbuildings in the residential curtilage of a dwellinghouse (Use Class C3) to facilitate a small-scale, home-based food production and delivery business (Sui Generis), operating ancillary to the C3 use.</p> <p>This proposal constitutes a retrospective hot food takeaway business – albeit adopting an untraditional form – operating from the residential curtilage of a dwellinghouse that is considered to conflict with paragraphs 96(c), 97(a) and 97(b) of the NPPF, the Council’s adopted Hot Food Takeaways SPD and Hot Food Takeaways Planning Advice Note and is considered unacceptable in principle. This weighs significantly against the proposal.</p> <p>In addition, insufficient details have been submitted to allow the full consideration of potential impacts regarding residential amenity, health and pollution control, and highway safety, contrary to Local Plan Policies GD1, POLL1 and T4. It is also considered that preparation of hot food on a day-to-day basis – albeit during a limited timeframe – could contribute to adverse noise and odour impacts that could affect neighbouring residents using their private rear garden areas which weighs significantly against the proposal.</p> <p>Furthermore, it is considered that the siting of the container creates a harsh, industrial type presence which appears visually jarring and incongruous with the surrounding residential setting. The arising harm is exacerbated by existing topography levels, the exposed bright green colour of the container in some places, and fascia signage, which results in a greater prominence, and further emphasises the commercial nature of the container in a residential setting, which weighs moderately against the proposal. As such, this application is recommended for refusal.</p> <p>Recommendation: <b>Refuse.</b></p>
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## Site Description

This application relates to existing detached outbuildings and a steel container within the residential curtilage of a semi-detached dwellinghouse located on the north-west side of Redhill Avenue and to the east of Kendray Hospital. Kendray Central Park and Kendray Primary School are located to the south-west alongside Oaks Park Primary Care Centre, Pharmacy, and the Kendray Youth Enterprise and Business Centre. The Stairfoot Local Centre is located to the north-east and the Barnsley Town Centre boundary is located to the north-west. The immediate area surrounding the development site is principally residential in nature.

The existing detached outbuildings are timber-constructed with flat roofs, and the existing container is steel, painted green, and partially clad in timber with signage located on its south-west and north-east elevations. The application dwellinghouse is fronted by an existing driveway and the topography of the area falls north-west to south-east. On-street parking is commonplace on Redhill Avenue and there are no on-street parking restrictions in place.



## Planning History

B/74/2645/BA	Pre-dates electronic working.	Pre-dates electronic working.
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## Proposed Development

This planning application seeks retrospective planning permission for the change of use of existing outbuildings in the residential curtilage of a dwellinghouse (Use Class C3) to facilitate a small-scale, home-based food production and delivery business (Sui Generis), operating ancillary to the C3 use.

A submitted Design and Access Statement (DAS) sets out that the business focuses on cooking and preparing food on-site for delivery only with no customer visits or collections, no on-site sales, or on-site consumption of food.

The submitted DAS and Application Form establishes that the retrospective business use operates Monday – Sunday (including Bank Holidays) between 17:00pm – 21:00pm.

The submitted DAS states that delivery of ingredients is undertaken by the business owner's private car and that prepared food is delivered by delivery drivers and, occasionally, by the business owner.

The submitted DAS establishes that two of the existing outbuildings have been retained for ancillary domestic purposes. One is used for the storage of frozen food products and business-related kitchen equipment. One is used as a business-related kitchen for food preparation.

The outbuildings comprise a large, green steel container with some timber cladding and other timber-constructed buildings of varying scale. The container features 'Food Paradise' signage on its north-east and south-east elevations.

## **Relevant Policies**

### The Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires development proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Barnsley consists of the Barnsley Local Plan (adopted January 2019).

The Local Plan review was approved at a full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering on 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, which is due to take place in 2027, or earlier, if circumstances require it.

The development site is allocated as urban fabric within the adopted Local Plan which has no specific allocation. The following Local Plan policies are relevant in this case:

- *Policy SD1: Presumption in favour of Sustainable Development.*
- *Policy TC1: Town Centres.*
- *Policy TC3: Thresholds for Impact Assessments.*
- *Policy T3: New Development and Sustainable Travel.*
- *Policy T4: New Development and Transport Safety.*
- *Policy GD1: General Development.*
- *Policy POLL1: Pollution Control and Protection.*
- *Policy D1: High quality design and place making.*
- *Policy BIO1: Biodiversity and Geodiversity.*

### National Planning Policy Framework (NPPF) and the National Planning Practice Guidance

In December 2024, the Government published a revised NPPF which is the most recent revision of the original Framework, first published in 2012 and updated several times, providing the overarching planning framework for England. The NPPF sets out the Government's planning policies for England and how they are expected to be applied. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions. The revised document has replaced the earlier planning policy statements, planning policy guidance and various policy letters and circulars, which are now cancelled.

Central to the NPPF is a presumption in favour of sustainable development (paragraph 10) and plans and decisions should apply this presumption in favour of sustainable development (paragraph 11). There are three dimensions to sustainable development: economic, social and environmental; each of these aspects are mutually dependent. The following NPPF sections are relevant in this case:

- *Section 2: Achieving sustainable development.*
- *Section 4: Decision-making.*
- *Section 7: Ensuring the vitality of town centres.*

- *Section 8: Promoting healthy and safe communities.*
- *Section 9: Promoting sustainable travel.*
- *Section 12: Achieving well-designed places.*
- *Section 15: Conserving and enhancing the natural environment.*

The National Design Guidance (2019) is a material consideration and sets out ten characteristics of well-designed places based on planning policy expectations. A written ministerial statement states that local planning authorities should take this guidance into account when taking decisions.

Supplementary Planning Guidance

In line with the Town and Country Planning (Local Planning) (England) Regulations 2012, Barnsley has adopted twenty-eight Supplementary Planning Documents (SPDs) following the adoption of the Local Plan in January 2019. The following SPDs are relevant in this case:

- *Advertisements (Adopted May 2019).*
- *Biodiversity and geodiversity (Adopted March 2024).*
- *Hot food takeaways (Adopted May 2019).*
- *Hot food takeaways planning advice note (Adopted May 2019).*
- *Parking (Adopted November 2019).*
- *Residential amenity and the siting of buildings (Adopted May 2019).*

The adopted SPDs should be treated as material considerations in decision making and are afforded full weight.

**Representations**

This planning application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended).

Any neighbour sharing a boundary with the site has been sent written notification and the application has been advertised on the Council website.

No representations were received.

**Consultations**

Highways Development Control	<i>Comment(s) – Additional information sought.</i>
Pollution Control	<i>No objection(s).</i>
Public Health	<i>No comment(s) received.</i>

**Planning Assessment**

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

This planning application was submitted following complaints to the Local Planning Authority's (LPA) Planning Enforcement team.

The submitted DAS states that the retrospective business use does not constitute a café, restaurant, food outlet or takeaway use.

The LPA disagrees with this statement and considers the retrospective business use to constitute a hot food takeaway. In planning terms, a hot food takeaway is defined as the sale of hot food where the consumption of that food is mostly undertaken off the premises.

The submitted planning application details do not establish the type of food that is prepared as part of the retrospective business use. However, during site visits undertaken on 10<sup>th</sup> February 2026 and 20<sup>th</sup> March 2026 signage for 'Food Paradise' was seen. Following a Google search of 'Food Paradise 19 Redhill Avenue' it is understood that the business use is likely to involve the preparation of kebabs and burgers and other hot food based on the business's Just Eat profile. In addition, it appears that the container was previously located within the car park of McIntocks off Summer Lane based upon Google Street View imagery from July 2025. Social Media posts to a local business group also show that the retrospective business prepares hot food such as kebabs, burgers, fries and wraps.

This planning application has therefore been considered on the basis that the retrospective business use constitutes a hot food takeaway (Use Class Sui Generis) – defined as the sale of hot food where the consumption of that food is mostly undertaken off the premises.

Paragraph 96(c) of the NPPF establishes that planning policies and decisions should aim to achieve healthy, inclusive and safe places which: enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

Paragraph 97(a) and (b) of the NPPF states local planning authorities should refuse applications for hot food takeaways and fast-food outlets: (a) in 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 concentrations of such uses is having an adverse impact on local health, pollution or anti-social behaviour.

Regarding paragraph 97(a) of the NPPF, paragraph 5.7 of the Hot Food Takeaways Planning Advice Note establishes walking distance as being within ten minutes or a 400-metre radius, and paragraph 004 Reference ID:53-004-20190722 of the Planning Practice Guidance (PPG) sets out that schools, community centres and playgrounds are places where children and young people congregate. Whilst there are no schools within a 400-metre radius of the development site, Kendray Primary School is located just beyond. Kendray Central Park is located within a 400-metre-radius of the development site located to the south. As the development site is located outside of a designated town centre and is in walking distance of schools and other places where children and young people congregate, this retrospective proposal is contrary to paragraph 97(a) of the NPPF.

Regarding paragraph 97(b) of the NPPF, the Council's Hot Food Takeaways Planning Advice Note establishes that proposals for hot food takeaways in a ward where more than 32% of 10–11-year-old pupils are classed as having excess weight are more likely to conflict with the framework. Table 1 within the Planning Advice Note shows that the Stairfoot Ward has 36.9% of 10–11-year-old pupils classed as having excess weight. This retrospective proposal is therefore considered more likely to have an adverse impact on local health, contrary to paragraphs 96(c) and 97(b) of the NPPF.

Notwithstanding the above, this retrospective proposal provides a hot food takeaway business use falling outside of a defined Town, District and Local Centre. Such uses are not considered main town centre uses as defined by Annex 2: Glossary in the NPPF.

Paragraph 92 of the NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Local Plan Policy TC1: Town Centres establishes that edge of centre and out of centre development will only be allowed where it meets the requirements of the NPPF. Impact assessments will also be required as laid out by Local Plan Policy TC3: Thresholds for Impact Assessments. These should also comply with the requirements of the NPPF.

Local Plan Policy T3: Thresholds for Impact Assessments states that proposals for retail and leisure uses will be required to provide an impact assessment if they are of a scale, role or function where they could have a negative impact on the vitality and viability of the centre and are:

Located outside the Primary Shopping Area of Barnsley Town Centre and are:

- Within the catchment of Barnsley Town Centre; and
- Have a floorspace in excess of 2,500 square metres gross.

Located outside the Primary Shopping Area of a District Centre and are:

- Within the catchment of a District Centre; and
- Have a floorspace in excess of 1,000 square metres gross.

Located outside a Local Centre and are:

- Within the catchment of a Local Centre; and
- Have a floorspace in excess of 500 square metres gross.

If the local planning authority (LPA) has concerns that a proposal below these floorspace thresholds may have a significantly adverse impact on centres, the LPA may require an impact assessment as part of a planning application.

In this instance, given the small-scale nature of the business and its distance from the Stairfoot Local Centre (approximately 0.53km north-east) and Barnsley Town Centre (approximately 1.31km north-west) and that a hot food takeaway business is not considered a main town centre use, this proposal accords with Local Plan Policy TC1. Moreover, an impact assessment is not required in this instance in accordance with Local Plan Policy TC3.

While this retrospective proposal is considered to accord with Local Plan Policies TC1 and TC3, this retrospective proposal – albeit adopting an untraditional form – is considered to constitute a hot food takeaway in planning terms and as such, is considered contrary to paragraphs 96(c), 97(a) and 97(b) of the NPPF.

This retrospective proposal is considered unacceptable in principle. This weighs significantly against the proposal.

### Impact on Highways

Paragraph 116 of the NPPF sets out development should only be prevented or refused on highways grounds if there is an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, considering all reasonable future scenarios.

The submitted DAS establishes that the existing access to the front of the residential dwellinghouse has been retained and that no new access points are required. It adds that no customer parking will be required and therefore there is no increase on on-street parking demand. Furthermore, it is stated that delivery of ingredients is undertaken by the business owner's private car and that prepared food is delivered by delivery drivers and, occasionally, by the business owner. It is stated that vehicular movements remain limited, dispersed, and similar to typical residential activity.

The submitted Application Form indicates that the retrospective business use supports one full-time and two part-time employees.

The development site is served by a driveway which appears able to accommodate at least two off-street parking spaces. On-street parking is common on both sides of the road along Redhill Avenue and there are no on-street parking restrictions in place.

Highways Development Control were consulted; and further details were sought regarding numbers of collections made by delivery drivers during the stated hours of operations during a typical evening. Further information was also sought regarding travel to the site by employees and proposed parking arrangements. While the development site does benefit from off-street parking arrangements for the residential use this suggests that all business-related parking is accommodated on street.

Highways Development Control comments were relayed to the Agent on 17<sup>th</sup> February 2026, and a chasing email was sent on 16<sup>th</sup> March 2026 including a deadline to provide the requested details no later than 23<sup>rd</sup> March 2026. No responses were received and therefore, despite the LPA wanting to work in a positive and proactive manner seeking solutions to problems arising during the application process, it is considered that this application is supported by insufficient details to fully consider any potential impacts and to determine the application.

Considering the above, this is considered to weigh significantly against this retrospective proposal.

*The proposal is therefore considered contrary with Local Plan Policy T4: New Development and Transport Safety and is considered unacceptable regarding highway safety.*

#### Impact on Residential Amenity, Health and Pollution Control

A submitted Design and Access Statement (DAS) sets out that the business focuses on cooking and preparing food on-site for delivery only with no customer visits or collections, no on-site sales, or on-site consumption of food.

The submitted DAS and Application Form establishes that the retrospective business use operates Monday – Sunday (including Bank Holidays) between 17:00pm – 21:00pm.

The submitted DAS states that delivery of ingredients is undertaken by the business owner's private car and that prepared food is delivered by delivery drivers and, occasionally, by the business owner.

The submitted DAS adds that the kitchen operations are limited in scale with hours restricted to minimise disturbance in line with WHO evening guidelines and to pre-empt noise concerns, and there is no late-night activity at the premises. Regarding odours, there would be controlled food preparation only with no open-air cooking and no external extraction equipment.

The retrospective planning application is not supported by a Health Impact Assessment (HIA) based on the adopted Hot Food Takeaways Planning Advice Note template.

The Council's Environmental Health Officer (Pollution Control) was consulted; and no objection was received. It was stated that this development has a low potential to have an adverse impact on health and the quality of life of those living and/or working in the locality because it is unlikely that any noise from vehicular movements would cause a nuisance as it is stated there would no increase regarding

on-street parking and vehicular movements would be limited and similar to typical residential activity. In addition, odour and noise from kitchen activities would be limited to between 17:00pm – 21:00pm and there would be no external extraction.

In this instance, the LPA disagrees with the assessment by Environmental Health colleagues, and it is considered that this retrospective proposal could contribute to some noise and odour impacts with the potential of adversely affecting the amenity of neighbouring residents, particularly those who use their private rear gardens during the early evening and because the business use involves preparing hot food such as kebabs, burgers and fries. Limited details have been submitted regarding vehicular movements from employees and collections for deliveries and therefore, the LPA is not able to fully consider potential impacts and to determine the application.

Notwithstanding the above, it is not considered that the retrospective proposal contributes to adverse impacts by way of significantly increased overshadowing, overlooking and loss of privacy, or reduced outlook impacts which may otherwise adversely affect the amenity of the occupants of the application and neighbouring properties. Nonetheless, this does not justify the approval of a scheme considered unacceptable regarding potential noise and odour impacts.

Considering the above, this is considered to weigh significantly against this retrospective proposal.

*The proposal is therefore considered contrary with Local Plan Policy GD1: General Development and Local Plan Policy POLL1: Pollution Control and Protection and is considered unacceptable regarding residential amenity.*

#### Impact on Visual Amenity

The existing detached outbuildings are timber-constructed with flat roofs, and the existing container is painted green and part-clad in timber with fascia signage located on its south-west and north-east elevations. The topography of the area falls north-west to south-east. The steel container is located to the north-west corner of the development site where the ground level is at its highest point.

It is acknowledged that the existing detached outbuildings identified as 'Shed 1' and 'Shed 2' are of a scale and domestic ancillary use that means they are likely to fall within the parameters of permitted development. The outbuilding identified as 'Shed 3' adopts a similar scale but is used for commercial storage and therefore requires planning permission. The container identified as 'Shed 4' is of a scale and commercial use that requires planning permission.

All outbuildings are visible from the public realm of Redhill Avenue, and those identified as Sheds 1, 2 and 3 adopt a scale and appearance commensurate with domestic settings and therefore, the LPA raises no issues with these outbuildings which are relatively small-scale and are not overtly dominant or prominent structures in the street scene of Redhill Avenue.

The steel container, however, is notably larger in scale and footprint and, by its very nature, appears bulky and utilitarian in its design and appearance despite elements of vertical timber cladding.

The siting of the container therefore creates a harsh, industrial type presence which appears visually jarring and incongruous with the surrounding residential setting. The arising harm is exacerbated by existing topography levels, the exposed bright green colour of the container in some places, and the fascia signage, which results in the container having greater prominence and further emphasises its commercial nature in a residential setting. The container is visible from the surrounding public realm, including from Doncaster Road at the entrance of the Kendray Hospital site, and from within the site itself, where the harmful impacts of the container are more clearly visible.

Considering the above, this is considered to weigh moderately against this retrospective proposal.

*The proposal is therefore considered contrary with Local Plan Policies D1: High Quality Design and Placemaking and is unacceptable regarding visual amenity.*

#### Impact on Biodiversity and Geodiversity

In England, Biodiversity Net Gain (BNG) became mandatory from 12 February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and means developers must deliver a BNG of 10%. This proposal falls within the de minimis exemption and is therefore not subject to BNG in this instance.

Considering the above, this is considered to weigh modestly in favour of this retrospective proposal.

*The proposal is therefore considered to comply with Local Plan Policy BIO1: Biodiversity and Geodiversity and is considered acceptable.*

#### Planning Balance and Conclusion

In accordance with the provision of paragraph 11 of the NPPF (2024), the proposal is considered in the context of the presumption in favour of sustainable development.

For the reasons given above, and taking all other matters into consideration, the proposal constitutes a retrospective hot food takeaway business – albeit adopting an untraditional form – operating from the residential curtilage of a dwellinghouse that is considered to conflict with paragraphs 96(c), 97(a) and 97(b) of the NPPF, the Council’s adopted Hot Food Takeaways SPD and Hot Food Takeaways Planning Advice Note, and is considered unacceptable in principle. This weighs significantly against the proposal.

In addition, insufficient details have been submitted to allow the full consideration of potential impacts regarding residential amenity, health and pollution control, and highway safety, contrary to Local Plan Policies GD1, POLL1 and T4. It is also considered that preparation of hot food on a day-to-day basis – albeit during a limited timeframe – could contribute to adverse noise and odour impacts that could affect neighbouring residents using their private rear garden areas which weighs significantly against the proposal.

Furthermore, it is considered that the siting of the container creates a harsh, industrial type presence which appears visually jarring and incongruous with the surrounding residential setting. The arising harm is exacerbated by existing topography levels, the exposed bright green colour of the container in some places, and fascia signage, which results in a greater prominence, and further emphasises the commercial nature of the container in a residential setting, which weighs moderately against the proposal. As such, this application is recommended for refusal:

1. In the opinion of the local planning authority, this retrospective proposal constitutes a hot food takeaway business operating from the residential curtilage of a site that is located outside of a designated town, district or local centre and is within walking distance of schools and other places where children and young people congregate, contrary to paragraph 97(a) of the NPPF. In the opinion of the local planning authority, the proposal would also not enable and support healthy lives and would have an adverse impact on local health, contrary to paragraphs 96(c) and 97(b) of the NPPF and the Council’s Hot Food Takeaways Planning Advice Note and Hot Food Takeaways SPD. As such, the principle of development is considered unacceptable.
2. In the opinion of the local planning authority, insufficient details have been submitted to enable all potential impacts to be fully considered, specifically in relation to residential amenity, health and pollution control, and highway safety, contrary to the Council’s Hot Food Takeaways Planning Advice Note and Local Plan Policies GD1, POLL1 and T4.

3. In the opinion of the local planning authority, the siting of the container creates a harsh, industrial type presence which appears visually jarring and incongruous with the surrounding residential setting. The arising harm is exacerbated by existing topography levels, the exposed bright green colour of the container in some places, and fascia signage, which results in a greater prominence, and further emphasises the commercial nature of the container in a residential setting, contrary to Local Plan Policy D1.

**RECOMMENDATION: Refuse.**

### **Justification**

#### **Statement of compliance with Article 35 of the Town and Country Development Management Procedure Order 2015.**

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.

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering representations, the determination of the application and the resulting recommendation. It is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.