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2025/0077

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15 Agnes Road, Barnsley, S70 1NJ

Change of use from cafe and takeaway (Class E) to hot food takeaway (Sui Generis).

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### Site Description

The application relates to a two-storey terraced building on the bend of Agnes Road comprising a former café with ancillary takeaway service on the ground floor and a residential flat on the first floor. The property is located to the south-west of Barnsley Town Centre and in an area that is a mix of commercial and residential uses, including a Post Office, Hot Food Takeaway, Convenience Store and other retail uses. The property is stone fronted with a glazed shop front with UPVC cladding and a roller shutter and fascia signage in black, and a pitched slate roof. The wider surrounding area is principally residential with interspersed green spaces, including a playground to the north-west. On-street parking is commonplace with both sides of Agnes Road heavily utilised.



## Planning History

There are three planning applications associated with the development site:

1. B/77/0274/BA – Erection of covered way. – Historic.
2. B/79/1858/BA – Extension to bakery and parking area. – Historic.
3. B/80/0766/BA – Extension to bakery. – Approved.

There are two relevant applications associated with adjoining property, 13 Agnes Road:

1. B/01/1231/BA – Change of use from shop to hot food take-away. – Refused.

*In the opinion of the Local Planning Authority the proposed use will be materially detrimental to the amenities currently enjoyed by local residents by reason of increased evening noise and general disturbance, litter and the likelihood of increased levels of on street parking attracted to the premises. The proposal is therefore considered to be contrary to Policy S7 of the Unitary Development Plan and the Council's Supplementary Planning Guidance Note 7.*

*Furthermore the proposed use would increase on street parking on Agnes Road in close proximity to a sharp bend where forward visibility is limited, to the material detriment of highway safety. The proposals are therefore contrary to Policy TG2 of the Unitary Development Plan.*

2. B/04/0762/BA – Change of use from retail shop to hot food takeaway. – Refused.

*In the opinion of the local Planning Authority, the proposed use would be materially detrimental to the amenities of the occupiers of the adjacent properties, by reason of noise, smell, increased evening activity, litter and the likelihood of increased street parking attracted to the property. The proposal would be contrary to UDP Policy S7 and the Council's Supplementary Planning Guidance Note 7.*

*In the opinion of the local Planning Authority, the proposed use would result in on-street car parking occurring on Agnes Road in close proximity to a sharp bend. Such conditions would be detrimental to the interests of road safety and the free flow of traffic, contrary to UDP Policies S7 and TG2 and the Council's Supplementary Planning Guidance Note 7.*

## Proposed Development

The applicant is seeking permission for the change of use of a café and takeaway (Class E) to a Hot Food Takeaway (Sui Generis).

## 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 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.

### Local Plan Allocation – Urban Fabric

The development site is allocated as urban fabric in the adopted Local Plan which has no specific land allocation. In respect of this application, the following policies are relevant:

- **Policy SD1: Presumption in favour of Sustainable Development.**
- **Policy GD1: General Development.**
- **Policy POLL1: Pollution Control and Protection.**
- **Policy D1: High quality design and place making.**
- **Policy T3: New Development and Sustainable Travel.**
- **Policy T4: New Development and Transport Safety.**

### Supplementary Planning Document(s)

- **Shop front designs (Adopted May 2019).**
- **Hot food takeaways (Adopted May 2019).**
- **Hot food takeaways planning advice note (Adopted May 2019).**
- **Parking (Adopted November 2019).**

### National Planning Policy Framework (December 2024)

The National Planning Policy Framework sets out the Government's planning policies and how these are expected to be applied. The core of this is a presumption in favour of sustainable development. Proposals that align with the Local Plan should be approved unless material considerations indicate otherwise. In respect of this application, relevant policies include:

- **Section 8: Promoting healthy and safe communities.**

*Paragraph 96(c). 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. 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.

– **Section 9: Promoting sustainable transport.**

Paragraph 116. 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, following mitigation, would be severe, taking into account all reasonable future scenarios.

– **Section 12: Achieving well-designed places.**

Paragraph 135. Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

## Consultations

Highways Development Control	No objection.
Pollution Control	No objection.
Local Ward Councillors	No comments.

## Representations

Neighbour notification letters were sent to surrounding properties. A site notice was placed nearby, expiring 11<sup>th</sup> March 2025. Four objections were received from three addresses. The concerns raised are summarised as follows:

- Negative impact on residential amenity as takeaways often generate increased noise, litter, and anti-social behaviour, especially late at night, and cooking fumes and odours from the premises will also negatively impact nearby homes.
- Parking and traffic congestion and additional frequent vehicle movements in the locality.

- Overconcentration of takeaways in the locality which do not add value to the local community and could potentially lead to closures of existing local shops.

## **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:

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

## Principle of Development

Paragraph 96(c) of the framework states 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 framework states 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.’

In relation to paragraph 97(a) of the framework, paragraph 5.7 of the Hot Food Takeaways Planning Advice Note states walking distance is within ten minutes or a 400-metre radius, and paragraph 004 Reference ID:53-004-20190722 of the Planning practice guidance 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, there are several schools in the wider locality, including the Holy Rood Catholic Primary School, Shawlands Primary School, Joseph Locke Primary School, Green Acre School and Horizon Community College to the west. There are several greenspaces within the 400-metre radius of the development site, including a playground which is located approximately 131 metres to the north-west. As the development site is located outside of a designated town centre and within walking distance of schools and other places where children and young people congregate, the proposal is considered to be contrary to paragraph 97(a).

In relation to paragraph 97(b) of the framework, the Council’s Hot Food Takeaways Planning Advice Note states 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 Central Ward has 34.9% of 10–11-year-old pupils classed as having excess weight. The proposal is therefore more likely to have an adverse impact on local health, contrary to paragraphs 96(c) and 97(b) of the framework.

Consequently, the proposal is considered unacceptable in principle.

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

During the application process, concerns were raised regarding increased noise and odour impacts and littering and operational hours.

The development site is located in an area that is principally residential with an existing concentration of commercial uses to the centre of Agnes Road. The application property is attached to an existing dwelling. A flat is also located above the existing ground floor commercial premises of the application property.

The application is supported by limited details in relation to operational hours, the installation of plant and machinery, including a fume extraction system, and refuse storage and management, including littering. Potential adverse impacts on the amenity of the occupant(s) of neighbouring properties and people living and/or working in the area by way of noise, disturbance and odour cannot therefore be fully considered, and whilst some potential impacts could be mitigated by conditions, and additional information could have been requested to support the application, it would not address the fact that the proposal is considered unacceptable in principle. Moreover, the application is not supported by a Health Impact Assessment (HIA) as required by the Council's Hot Food Takeaways Planning Advice Note (Adopted May 2019).

There could be some potential disturbance and disruption because of construction works. However, any potential impact is anticipated to be temporary and could be controlled by condition.

Pollution Control were consulted, and no objection was raised as it was considered that the proposed use would have similar noise, and odour impacts to the existing use and therefore it was considered that the development would have a low potential to have an adverse impact on health and the quality of life of those living and/or working in the locality, although it was stated, that additional information could help to better understand the services proposed. Notwithstanding this, the LPA is of the opinion that insufficient details have been submitted to fully understand and consider the potential impacts of the proposal on residential amenity, health and pollution control.

*The proposal is therefore considered to be contrary to 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

During the application process, concerns were raised in relation to the over proliferation of hot food takeaways in the area.

The application property comprises a ground floor commercial unit with a first floor flat above and is constructed of stone with the shop front comprising glazing, UPVC cladding and fascia signage with a roller shutter in black. The surrounding area comprises a mix of residential and commercial uses, with other buildings also constructed of stone with similar shop frontages and fascia signage.

Signage is not under consideration at this stage and could require the submission of an application for advertisement consent, especially where illuminated signage is proposed.

The application is supported by limited details in relation to external materials and any potential shop front alterations and therefore, the proposal has been considered on the basis that the existing shop front would be retained, and no new extract systems or other plant and machinery would be installed, which would not adversely affect the character of the street scene. As there is only one existing hot food takeaway in the street, it is not considered that the proposal would result in the over proliferation of hot food takeaways in the area. The application form indicates that waste storage would be located to the rear of the property. The proposal is therefore considered acceptable in this instance.

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

Any potential future shopfront alterations and installation of new fume extract systems and plant and machinery would need to be considered as part of a new planning application.

*The development is therefore considered to comply with Local Plan Policy D1: High Quality Design and Placemaking and is acceptable regarding visual amenity. Nevertheless, development that is considered acceptable regarding visual amenity does not justify the approval of a scheme which is considered unacceptable in principle.*

### Impact on Highway Safety

During the application process, a number of concerns were raised regarding additional parking and congestion on Agens Road from customers and delivery drivers, which is already heavily congested with limited parking availability. Increased stopping and waiting would cause obstructions, increase frustration, and lead to illegal parking on pavements and residential driveways, with the increased frequency of vehicle movements likely to pose a risk to the safety of pedestrians, cyclists and other road users, particularly in the evenings when visibility is lower.

The development site is located on the bend of Agnes Road and within the vicinity of several existing commercial uses. There are no parking restrictions in place with on-street parking commonplace on both sides of the road.

Whilst it is acknowledged that previous similar applications were refused partly on highway grounds, applications must be determined in accordance with current national and local planning policies and guidance. Paragraph 116 of the framework states 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, following mitigation, would be severe, considering all reasonable future scenarios.

The Hot Food Takeaways SPD states that hot food takeaways can generate significant volumes of traffic, short term on-street parking and associated turning movements, and where on-street parking would lead to highway safety problems, planning permission may be refused.

Highways Development Control were consulted. It was acknowledged that both sides of Agens Road are heavily parked due to minimal off-street parking in the locality. However, the proposal would not result in an increased parking requirement and given that there are several commercial uses in the vicinity, it would be difficult to substantiate an objection on highway safety grounds. The site benefits from an edge of town centre location and therefore has good access to pedestrian and cycle routes and public transport links and local amenities. The development site is therefore considered to be in a sustainable location in accordance with section 9 of the NPPF and Local Plan Policy T3. In view of this, Highways Development Control have raised no objection.

It is acknowledged that there could be some additional impact as a result of the proposal, including some intensification of parking and vehicular movements in the locality. However, current national planning policy and guidance is clear regarding the circumstances in which development should be refused on highway safety grounds. In this instance, the proposal would occupy an existing ground floor commercial unit and would replace an existing similar use with an ancillary takeaway service. It is therefore not considered that the proposal would result in an unacceptable impact on highway safety that would substantially worsen existing impacts, nor would the residual cumulative impacts on the road network be severe. The site is in a sustainable location and is easily accessible on foot, by car and benefits from reasonable access to nearby public transport links. As such, an attempt to refuse this application on highway safety grounds would unlikely be upheld at appeal. As such, the proposal is considered acceptable in this instance.

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

*The development is therefore considered to comply with Local Plan Policy T3: New Development and Sustainable Travel and Local Plan Policy T4: New Development and Transport Safety and is acceptable regarding highway safety. Nevertheless, development that is considered acceptable regarding highway safety does not justify the approval of a scheme which is considered unacceptable in principle.*

#### Planning Balance and Conclusion

For the reasons given above, and taking all other matters into consideration, the proposal constitutes development that conflicts with paragraphs 96(c), 97(a) and 97(b) of the framework and the Council's Hot Food Takeaways SPD and Hot Food Takeaways Planning Advice Note and is unacceptable in principle. Moreover, insufficient details have been submitted to enable full consideration of potential impacts in relation to residential amenity, health and pollution control, contrary to Local Plan Policies GD1 and POLL1. As such, this application is recommended for refusal:

1. The development site is located outside of a designated town centre and within walking distance of schools and other places where children and young people congregate, contrary to paragraph 97(a) of the National Planning Policy Framework, and in the opinion of the local planning authority, the proposal would 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 National Planning Policy Framework. 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, contrary to the Council's Hot Food Takeaways Planning Advice Note and Local Plan Policies GD1 and POLL1.

**Recommendation –  
Refuse.**