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2025/0125

Mr Mohammed Jabir Kadambil

4 Wellington Street, Barnsley, S70 1SS

Change of use to Hot Food Takeaway (Sui Generis Use Class).

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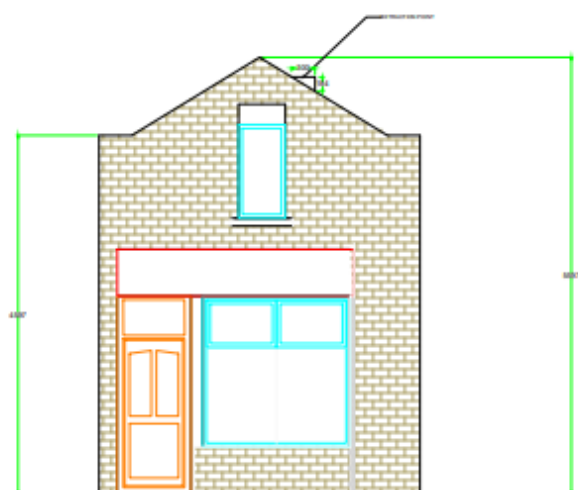
### Site Description

The application building is a somewhat modest 1.5 storey commercial premises constructed of stone with a slate gable pitched roof. The building frontage features a concealed modern shopfront behind a galvanised roller shutter. A smaller window is located above. The surrounding area is characterised by a mix of commercial uses, including public houses, bars, several hot food takeaways, and retail stores with varying shopfronts and signage.

The Regent Street, Church Street and Market Hill Conservation Area is located to the north and the grade II-listed Royal Theatre is located to the south.



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- \* All proprietary goods and materials are to be fitted in accordance with manufacturers instructions and relevant Codes of Practice.
- \* All work to comply with current British Standards and relevant parts of "The Building Standards Regulations" or equivalent national or local codes of practice.
- \* Notwithstanding all of the above, all electrical work must comply with current I.E.E. regulations or equivalent.
- \* The contractor will be held responsible for the structural integrity of all fittings and fixtures supplied.
- \* Dimensions must be checked by contractor and submitted in writing to the client for approval. All work must be approved by Redfern Ltd prior to construction.
- \* Any variations between stated dimensions and site dimensions should be reported to Redfern Ltd prior to work being executed.
- \* Where requested, samples of all finishes are to be provided by contractors, sub-contractors and suppliers for approval by Redfern Ltd prior to installation or completion.

## Notizen

Ref. No.	Ref. Title	Ref. Date	Ref. Status
1	Required for approval		

1999年12月

WOLFF, J. H. 1993. *Field and Laboratory Studies of the Biology of the Common Frog (Rana temporaria)*. Ph.D. thesis, University of Illinois at Chicago.

WELLINGTON STREET

1997-1998

### GENERAL APPLIANCE MENT

Scale	Date	Drawn/Checked
1:50 @ A3	14/02/2005	T.S.
Project No.	Drawing No.	Revision
-	1	1

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## 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 – Town Centre

The development site is in the Southgate District within Barnsley Town Centre. Therefore, in respect of this application, the following policies are relevant:

- ***Policy SD1: Presumption in favour of Sustainable Development.***
- ***Policy TC1: Town Centres.***
- ***Policy TC2: Primary and Secondary Shopping Frontages.***
- ***Policy BT17: Southgate District.***
- ***Policy GD1: General Development.***
- ***Policy POLL1: Pollution Control and Protection.***
- ***Policy D1: High quality design and place making.***
- ***Policy HE1: The Historic Environment.***
- ***Policy HE3: Developments affecting Historic Buildings.***
- ***Policy HE4: Developments affecting Historic Areas or Landscapes.***
- ***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 (HFTA PAN) (Adopted May 2019).***
- ***Parking (Adopted November 2019).***

### National Planning Policy Framework (NPPF) (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.*

**– Section 16: Conserving and enhancing the historic environment.**

*Paragraph 208. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.*

## Planning (Listed Buildings and Conservation Areas) Act 1990

- *Section 16: Decision on application.*
- *Section 66: General duty as respects listed buildings in exercise of planning functions.*
- *Section 72: General duty as respects conservation areas in exercise of planning functions.*

## Other Material Considerations

- *Planning Practice Guidance.*

## **Consultations**

Highways Development Control	<i>No objection.</i>
Public Health	<i>Objection.</i>
Pollution Control	<i>No objection.</i>
Conservation Officer	<i>No objection.</i>
Policy	<i>Some conflict with the HFTA PAN and NPPF.</i>
Local Ward Councillors	<i>No comments received.</i>

## **Representations**

Neighbour notification letters were sent to surrounding properties. A site notice was placed nearby, expiring 15<sup>th</sup> April 2025. No representations were received.

## **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. The development site is located within a 400-metre radius of Barnsley College, Barnsley Sixth Form College and Trinity Academy St Edwards, but is within a designated Town Centre. As such, the proposed development does not conflict with paragraph 97(a) of the NPPF.

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 HFTA PAN shows that the Central Ward has 34.9% of 10–11-year-old pupils classed as having excess weight based on 2018 data. The proposal is therefore more likely to have an adverse impact on local health, contrary to paragraphs 96(c) and 97(b) of the NPPF. In addition, Public Health were consulted, and an objection was received because of higher-than-average levels of childhood overweight and obesity and a high proliferation of existing hot food takeaways in the area. However, up-to-date statistics were used to form the basis of this objection which are not included within the adopted Hot Food Takeaways SPD or HFTA PAN. As such, they cannot be attributed any weight in this regard. However, the up-to-date statistics are attributed moderate weight with respect of national planning policies. It is acknowledged that the statistics do suggest some conflict with the Council’s HFTA PAN and NPPF and that Hot Food Takeaways can be a contributing factor to childhood and adult overweight and obesity levels. However, further demonstrable evidence has not been provided in relation to the concentration of such uses having an adverse impact on local health, pollution or anti-social behaviour. The NPPF and Planning Practice Guidance do not offer advice on what form such evidence may take. Therefore, the proposed development is considered acceptable regarding paragraph 97(b) of the NPPF in this instance.

The HFTA PAN also references the over proliferation of hot food takeaways, and that consideration will be given to the number of existing hot food takeaways in each ward as per Table 1, and that any planning decisions should aim to achieve healthy, inclusive and safe places in accordance with the NPPF, especially where this would address identified local health and well-being needs. The greater the number of hot food takeaways within a ward the more likely it will be that proposals for additional hot food takeaways would conflict with this part of the NPPF. Table 1 within the HFTA PAN shows the Central Ward has 40 existing outlets as of 2018 which is noticeably higher than any other ward in the borough. It is acknowledged that there are localised concentrations of hot food takeaways on Wellington Street and within the wider locality. However, it is not considered that the addition of one hot food takeaway would have a material adverse impact given the existing context.

Local Plan Policy TC1 states that Barnsley Town Centre is the dominant town centre in the borough. To ensure that it continues to fulfil its sub-regional role, most new retail and town centre development will be directed to Barnsley Town Centre. Moreover, all town centre developments will be expected to be appropriate to the scale, role, function and character of the centres in which they are proposed.

Local Plan Policy TC2 states that proposals for retail (A1-A5) uses will be allowed on Primary and Secondary Shopping frontages in Barnsley Town Centre provided that, within each primary shopping frontage in Barnsley Town Centre, ground floor uses would remain predominantly retail (Class A1) in nature. Other uses may be acceptable, especially where they diversify and improve provision in a centre, if it can be demonstrated that the vitality and viability of the primary shopping area concerned would not be negatively affected and that ground floor uses on the Primary Shopping Frontages remain predominantly retail (Class A1) in nature. In this instance, the application building is located on a secondary shopping frontage. Hot Food Takeaways fall within one of the permitted use classes on a secondary shopping frontage. Whilst the Policy TC2 also requires ground floor uses to remain predominantly retail in nature, Wellington Street comprises existing public house, bar and food and

drink uses, including several existing hot food takeaways. As such, the proposal would be in-keeping with the existing character of the area and although there is some conflict with this policy, on balance, the proposal is considered acceptable in this instance.

Paragraph 4.7 of the HFT SPD states that there should be no more than one hot food takeaway use in any one length of frontage to protect the street scene, achieve a diverse mix of shops and maintain good standards of design. As established, Wellington Street comprises existing public house, bar and food and drink uses, including several existing hot food takeaways. Whilst it is acknowledged there would be some conflict with this part of the HFT SPD, the proposal would be in-keeping with the character of the area and on balance, the proposal is considered acceptable in this instance.

Local Plan Policy BT17 states that offices, residential development, assembly and leisure uses, hotel and food and drink use, and car parking will be allowed within the Southgate District. In this instance, a hot food takeaway is considered a food and drink use and is therefore acceptable.

The proposed development would see an additional hot food takeaway created in the Central Ward, taking the total amount in this ward to 41 based on 2018 BMBC local data source. Whilst there is a localised concentration and clustering of such uses on Wellington Street, it is not considered that the proposal would materially or detrimentally impact the character, function or vitality of the frontage or the wider town centre. The proposal would not impact a primary shopping frontage and is located away from the main retail and leisure core of the town centre which is now centred around the Glass Works. In addition, Wellington Street is identified as an area within Barnsley Town Centre where late night uses are encouraged as established by Local Plan Policy BTC2. Whilst the proposal would not constitute a late-night use, existing public house and bar uses on Wellington Street would. As such, the proposed HFT would be located in an area of Barnsley Town Centre that is more likely to attract footfall from adults rather than children. This area of Barnsley Town Centre is therefore considered to be most appropriate for a proposed HFT use.

Consequently, whilst it is acknowledged that there is some conflict with national and local planning policies and guidance, the proposal would be appropriate for its setting, would enable the continued use of an existing commercial premises allowing the site to continue to contribute to the vitality and viability of Barnsley Town Centre, and would be located in an area of the town centre designated for late night uses which are more likely to attract footfall and custom from adults and not children. On balance, the proposal is considered acceptable in principle.

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

The development site is located within an area that is principally commercial which comprises public house, bar, and food and drink uses, including hot food takeaways, with a small number of residential flats above existing ground floor commercial uses within the locality.

The application is supported by a Health Impact Assessment (HIA) based on the HFT SPD template. The HIA confirms amongst other things that the proposed ventilation and extraction systems would incorporate sound and odour attenuation and reduction measures. Pollution Control were consulted, and no objections were received, stating that the 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. As such, this is considered to weigh moderately in favour of the proposed development.

Potential affects relating to littering associated with the operational activities of the hot food takeaway would be minimised through active management of the immediate area. An existing litter bin opposite from the development site provides further mitigation and the applicant intends to use their own bins. As such, this is therefore to weigh modestly in favour of the proposed development.

Regarding healthy eating, it is stated that menu options would include healthier items such as grilled items, salads and low-calorie which would be advertised prominently. The details included within the HIA sufficiently sets out the applicant's approach to healthy eating, and in the context of surrounding



uses which provide a food and beverage offering, it is concluded that the proposal would provide an appropriate mix and level of choice for local people. The applicant's approach to healthy eating also reflects the aims and policies of section 8 of the NPPF, including those specified by paragraph 96. As such, this is considered to weigh modestly in favour of the proposed development.

Regarding anti-social behaviour, the development site is in an area characterised by late night uses, including public houses, bars and other hot food takeaways. As such, there is the potential for anti-social behaviour to occur. However, no demonstrable evidence was provided which would otherwise show that anti-social behaviour is a specific problem in this area. Moreover, surrounding properties were notified and a site notice placed nearby advertising the application and no representations were received. As such, this is considered to weigh modestly in favour of the proposed development.

The applicant has indicated that the proposed hot food takeaway would be operation between the hours of 10:00am – 06:00pm Monday- Sunday. The proposed operational hours are compliant with the Hot Food Takeaways SPD. For the avoidance of doubt, operational hours could be conditioned.

There could be some potential disturbance and disruption because of construction works, and whilst any potential impact is anticipated to be temporary, should the application be approved, a condition could be used to control construction hours.

Considering the above, and subject to conditions, the proposal is considered acceptable.

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

#### Impact on Design, Heritage and Visual Amenity

Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the listed building and conservation area or its setting or any features of special architectural or historic interest which it possesses.

The application building is a somewhat modest 1.5 storey commercial premises constructed of stone with a slate gable pitched roof. The building frontage features an entrance door alongside a relatively large ground floor window. A smaller window is located above. The application building is not located within the Regent Street, Church Street and Market Hill Conservation Area which is (approximately) 25 metres to the north. The Royal Theatre, which is currently occupied by Funny Gals, is a grade II-listed asset located approximately 22 metres to the south. Additionally, the application building is not a designated or a locally listed asset. Nonetheless, the Council's Conservation Officer was consulted due to the potential impact on the setting of the grade II-listed Royal Theatre and conservation area.

The Council's Conservation Officer acknowledged that the development site is not located within the conservation area and that the application building is not nationally nor locally listed. However, the Officer stated that the building forms part of a collection of C19 buildings located at the northern end of Wellington Street that have some significant historic character. The collection of buildings includes The Corner Pin (adjacent), Chennells Bar (opposite) and the listed Royal Theatre to the south. It is suggested by the Officer that the development site is located within the setting of this listed building. The Officer noted some of the altered shopfronts and signage to buildings further along Wellington Street which appear relatively oversized and garish and consequently, have eroded the setting. In terms of the current appearance of the application building, the Officer states that it presents little to the street scene other than a stone gable with one first-floor window and a modern shopfront that is concealed by a galvanised shutter. However, the application building is a C19 stone building which is considered to lend a minor positive contribution to the group value of other similar buildings within the locality. Regarding the proposed use, the Officer considers it to be no more, or less harmful than the building's existing use as a vape store, and therefore, the Council's Conservation Officer raised no objection in this instance.

There are no external alterations proposed to the application building other than the installation of a new extraction point within the southern roof slope, which would have a minimal projection beyond the perpendicular of the roof slope and would be set below the existing ridge. The extraction point would therefore not appear as a prominent nor dominant feature that would otherwise detract from the external appearance of the building and the character of the street scene.

Signage is not under consideration at this stage and would require the submission of an application for advertisement consent, especially if illuminated signage is proposed. The Council's Conservation Officer would be consulted as part of this process due to the potential impact upon the setting of the listed building.

As established, the proposal would result in some localised concentration and clustering of hot food takeaways on Wellington Street, contrary to the Council's guidance. However, the proposal would be in-keeping with the existing street scene character which is characterised by several existing hot food takeaways alongside other commercial uses. Therefore, on balance, the proposal is considered acceptable in this instance.

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

*The proposal is therefore considered to comply with Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal is also considered to comply with Local Plan Policy HE1: The Historic Environment, Local Plan Policy HE3: Developments affecting Historic Buildings, Local Plan Policy HE4: Developments affecting Historic Areas or Landscapes and Local Plan Policy D1: High Quality Design and Placemaking and is considered acceptable regarding visual amenity.*

#### Impact on Highway Safety

The development site is located on Wellington Street close to the signalised junction with Pitt Street. Wellington Street is a one-way road with traffic directed northbound. There are parking restrictions in place along Wellington Street which comprise double yellow lines and loading only bays, including one to the front of the application building. There is also designated bays for disabled badge holders and Taxis.

Highways Development Control were consulted, and it was communicated that the development site has good pedestrian and cycle access and is within comfortable walking distance of public transport links as well as many services and amenities due to its town centre location. It is therefore considered that the development site is in a sustainable location which complies with Section 9 of the NPPF and Local Plan Policy T3. It is acknowledged that the development site has no off-street parking provision and that none is proposed. However, within the vicinity there are numerous other hot food takeaways alongside public houses, bars and retail stores, the majority of which also have no off-street parking provision. This is considered typical for a town centre location. Notwithstanding this, it is stated that the change of use would not result in an increased parking requirement. No objections were received from Highways Development Control and no specific highways conditions are deemed necessary in this instance.

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

*The proposal 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 considered acceptable regarding highway safety.*

### Planning Balance and Conclusion

For the reasons given above, and taking all other matters into consideration, the proposal constitutes acceptable development in respect of highway safety and residential and visual amenity. Whilst the proposal would contribute to localised concentrations and clustering of HFTs, the proposed HFT use is permitted on a secondary shopping frontage and is an appropriate use for the Southgate District, in accordance with Local Plan Policies TC2 and BT17. The proposed HFT use would also be located in an area characterised by late night uses and where such uses are encouraged, as established by Local Plan Policy BTC2. As such, the proposed HFT use would be appropriately located within the town centre and in an area which is likely to attract footfall and custom from adults and not children or young people. The proposed HFT use would also be located away from the main retail and leisure core centred around the Glass Works development and would enable the commercial premises to continue to contribute to vitality and viability of Barnsley Town Centre, in accordance with Local Plan Policy TC1. The applicant has also set out a strategy to provide healthier food and drink options as well as measures to mitigate potential noise, odour and littering impacts.

**Recommendation –  
Approve with Conditions**