

Application Reference Number:	2025/0528		
Application Type:	Full.		
Proposal Description:	Proposed extension to opening hours of existing commercial premises.		
Location:	150 Sheffield Road, Barnsley, S70 1JH.		
Applicant:	Mr Halim Halicioglu.		
Third-party representations:	None.	Parish:	
		Ward:	Central.

Summary:

The applicant is seeking planning permission to extend the opening hours of the existing commercial premises. The proposed opening hours are:

- Monday – Sundays (including Bank Holidays) between 17:00pm – 01:00am.

Development is expected to demonstrate that it would be unlikely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or people.

This proposal relates to the extension of opening hours of the existing commercial premises (Shake 'N' Cake) by 2 hours from 17:00pm – 11:00pm to 17:00pm to 01:00am Monday – Sundays (including Bank Holidays).

There is no current licensing at this premises or any relevant planning history which sets out controls in respect of opening hours. The proposal is therefore acceptable in principle.

The proposal would have no adverse impact on residential or visual amenity or health and pollution control or highway safety. The proposal is therefore considered to be an acceptable and sustainable form of development in accordance with Section 2 of the National Planning Policy Framework (NPPF, 2024).

Recommendation: **APPROVE subject to conditions.**

Site Description

This application relates to an existing ground floor mid-terrace commercial unit located on the west side of Sheffield Road near the crossroads junction with Cemetery Road and Park Road and within an area that is a mix of commercial and residential uses. The application unit (Shake 'N' Cake) forms part of a row of commercial units comprising a tattoo studio, hot food takeaways, an off licence and mini market, tanning and beauty salon, barbers and dessert shop, with similar uses continuing along the west side of Sheffield Road towards the Alhambra roundabout. The Victoria pub is located to the south.



Planning History

B/96/1379/BA	Installation of new shopfronts.	Approved.
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Proposed Development

The applicant is seeking planning permission to extend the opening hours of the existing commercial premises. The proposed opening hours are:

- Monday – Sundays (including Bank Holidays) between 17:00pm – 01:00am.

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 GD1: General Development.*
- *Policy POLL1: Pollution Control and Protection.*
- *Policy D1: High quality design and place making.*
- *Policy T4: New Development and Transport Safety.*

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 8: Promoting healthy and safe communities.*
- *Section 12: Achieving well designed places.*

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:

- *Residential amenity and the siting of buildings (Adopted May 2019).*
- *Parking (Adopted November 2019).*

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

Consultations

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 have been received.

Pollution Control	<i>No objection.</i>
Licensing	<i>No objection.</i>
Local Ward Councillors	<i>Objection – Cllr Sumner – It is in a residential area and opening until 1am every morning including bank holidays is excessive and will</i>

	<i>encourage noise and attract footfall which is not appropriate in this location. This area already has issues with ASB and drug dealing.</i>
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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:

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

Principle of Development

Development is expected to demonstrate that it would be unlikely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or people.

This proposal relates to the extension of opening hours of the existing commercial premises (Shake 'N' Cake) by 2 hours from 17:00pm – 11:00pm to 17:00pm to 01:00am Monday – Sundays (including Bank Holidays).

There is no current licensing at this premises or any relevant planning history which sets out controls in respect of opening hours. The proposal is therefore acceptable in principle.

Impact on Residential Amenity, Health and Pollution Control

During the application process, concerns were raised regarding existing anti-social behaviour in the area. Concerns were also raised in respect of the proposed opening hours being excessive within a residential area and that the proposal could encourage noise and footfall that is not appropriate for this location.

Paragraph 96(b) of the NPPF states planning policies and decisions should aim to achieve healthy, inclusive and safe places which: are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life of community cohesion. Whilst crime and disorder, and the fear of crime can be a material consideration, the concerns raised regarding anti-social behaviour seem general to the area rather than specifically relating to the premises in question. To be material, the fear of crime must be relevant to the specific proposal under consideration and not a generalised issue. No demonstrable evidence has been supplied to evidence this and as such, limited weight is attributed to these concerns in this instance against the proposal.

Whilst the proposal could increase noise and footfall to the area, this would not be out of character for an area that is a mix of residential and commercial uses. There are a limited number of residential properties above the existing commercial units. The closest nearby residential properties are located approximately 30 metres to the west. Moreover, some surrounding commercial premises appear to benefit from late opening hours up to 11:00pm and 00:00am. The proposal would not be substantially different from this, and it is unlikely that an increase of two hours per day would detrimentally affect the amenity of nearby residents. Pollution Control and Licensing were consulted, and no objections were received.

Notwithstanding the above, there is no current licensing at this premises or other relevant planning history which sets out controls in respect of opening hours. Consequently, the LPA has no justifiable position to refuse this application in this instance. However, this application does allow controls going

forward. As such, should this application be approved, a condition could be used to control opening hours at the premises. This is considered to weigh moderately in favour of the proposal.

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 Visual Amenity

It is not considered that the proposal would markedly alter or detract from the character of the street scene or application property as no extensions and alterations are proposed.

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

The proposal is therefore considered to comply with Local Plan Policies D1: High Quality Design and Placemaking and is acceptable regarding visual amenity.

Impact on Highways

The development site is positioned along the A61 Sheffield Road which is a primary route between the Town Centre and Worsbrough. The premises occupies a plot near a crossroads junction and is within the vicinity of many shops and amenities. The area is well-served by public transport and on-street restrictions by way of double yellow lines to prevent indiscriminate parking. The proposal could generate a small number of additional vehicular trips, but a significant proportion is likely to remain existing residents or visitors to the area, and as such, it is not considered that the proposal would be prejudicial to highway safety.

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

The proposal is therefore considered to comply with Local Plan Policy T4: New Development and Transport Safety and is considered acceptable regarding highway safety.

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 and therefore, for the reasons given above, and taking all other matters into consideration, the proposal complies with the relevant local and national planning policies and guidance. Therefore, planning permission should be granted subject to necessary conditions.

RECOMMENDATION: Approve subject to conditions.

Justification

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

It has not been necessary to make contact with the applicant to request amendments to the proposal during the consideration of the application, as it was deemed acceptable.

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.

Conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out strictly in accordance with the plans:

Site Location Plan
Design and Access Statement

and specifications as approved unless required by any other conditions in this permission.
Reason: In the interests of the amenities of local residents and in accordance with Local Plan Policies GD1 General Development and POLL1 Pollution Control and Protection.

3. The **existing** use shall be carried out only between the hours of 17:00pm – 01:00am Monday – Sundays (including Bank Holidays).

Reason: In the interests of the amenities of local residents and in accordance with Local Plan Policies GD1 General Development and POLL1 Pollution Control and Protection.

Informative(s):

4. The granting of planning permission does not in any way infer that consent of the landowner is given. Therefore, the consent of all relevant landowners is required before proceeding with any development, including that of the Council as landowner.

If it should transpire that the applicant does not own any of the land included in this consent, then it is the responsibility of the applicant to seek all necessary consents and approvals of the landowner.

5. It is recommended that measures are taken to prevent a nuisance/ or effect the quality of life of local residents. Please note that the Council's Pollution Control Team have a legal duty to investigate any complaints about noise, smoke or dust. No waste should be burnt. If a statutory nuisance is found to exist, they must serve an Abatement Notice under the Environmental Protection Act 1990. Failure to comply with the requirements of an Abatement Notice may result in a fine of up to £20,000 upon conviction in Magistrates' Court. It is therefore recommended that you give serious consideration to the steps that may be required to prevent a noise, dust or smoke nuisance from being created.