

<b>Agenda Item</b>	A7
<b>Application Number</b>	23/00502/FUL
<b>Proposal</b>	Change of use of existing restaurant (Class E) to mixed use unit comprising of restaurant and drive thru takeaway (sui generis), demolition of existing single storey extensions to side and rear, installation of external cladding and panelling and 2 new windows to the side, reconfiguration of car park to create drive-thru lane and associated landscaping
<b>Application site</b>	Frankie And Bennys Hilmore Way Morecambe Lancashire
<b>Applicant</b>	BKUK Group Ltd
<b>Agent</b>	Mr Chris Jones
<b>Case Officer</b>	Mr Patrick Hopwood
<b>Departure</b>	No
<b>Summary of Recommendation</b>	Approval, subject to conditions

(i) **Procedural Matters**

This form of development would normally be dealt with under the Scheme of Delegation. However, as the landowner is Lancaster City Council, the application must be determined by the Planning Regulatory Committee.

**1.0 Application Site and Setting**

1.1 The site to which this application relates is the former Frankie & Benny's building off Central Drive, Morecambe. The building was originally constructed in the mid-1990s as a drive through Burger King takeaway, until Frankie & Benny's took over the site in 2008, removing the drive through and extending into the former drive through lanes. Frankie and Benny's vacated the site in 2020, and it has remained disused since then. The building is located on the corner of Hilmore Way and Central Drive, and the site shares an access point on Hilmore Way with a gym and pizza takeaway who co-habit the former Blockbuster video shop. Hilmore Way also leads to Morrisons, Morrisons Petrol Station, B&M, Homebase and Next, together with their associated car parks, coach parking, and service areas.

1.2 The site is located within the Morecambe Area Action Plan (MAAP) and a Regeneration Priority Area. The cycle path to the west and south forms part of National Cycle Routes 69, 700, and the Way of the Roses, and is also designated as an existing cycle route under Policy T2.

## 2.0 Proposal

2.1 This application seeks planning permission for change of use of the existing restaurant (Class E) to a mixed-use unit comprising of restaurant and drive thru takeaway (sui generis), demolition of existing single storey extensions to side and rear, installation of external cladding and panelling and 2 new windows to the side, reconfiguration of car park to create drive-thru lane and associated landscaping. The drive thru lane will wrap around the building in a clockwise direction, with the order point on the southwest side, and the payment and collection windows on the northwest side. The car park is to include designated "click and collect" and "grill bay" parking spaces, in addition to disabled parking and cycle hoops. Windows, doors, fascias and soffits will be finished in white and brown colours, boarding on the gable ends painted black, and cedar wood effect cladding applied to feature elevations.

## 3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
95/00530/FUL	Erection of a drive through takeaway restaurant and video shop	Approved
08/00836/FUL	Alterations and extensions to existing Burger King restaurant to form Frankie & Benny's restaurant with ancillary bar	Approved
22/01452/FUL	Change of use of existing restaurant (Class E) to mixed use unit comprising of restaurant and drive thru takeaway (sui generis), demolition of existing single storey extensions to side and rear, installation of external cladding and panelling and 2 new windows to the side, reconfiguration of car park to create drive-thru lane and associated landscaping	Withdrawn (recommended for refusal due to inadequate queuing capacity in drive-through lane)

## 4.0 Consultation Responses

4.1 At the time of writing this report, the following responses have been received from statutory and internal consultees:

Consultee	Response
Town Council	No response received.
County Highways	<b>No objection</b> , earlier concerns regarding the access and potential queuing have been addressed. Developer should be aware of potential future cycle works. Conditions recommended for car parking and construction delivery timings.
Environmental Health	No response received.
Natural England	No response received.
Planning Policy	<b>Comments</b> on the submitted retail Sequential Test and considers it to be passed (position unchanged).
Engineering Team	No response received.
Lancashire Constabulary	No response received.
Public Realm	No response received.
Property Services	No response received.

4.2 At the time of writing this report, no responses from members of the public have been received.

## 5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle of Change of Use and Retail Impact
- Design
- Public Health
- Highways
- Environmental Considerations

5.2 Principle of Change of Use and Retail Impact (NPPF Section 7; Policies DM16, DM19, DM20, TC1, TC2, TC4 and EC5; MAAP AS9 and SP4)

5.2.1 The site was originally constructed as a drive through takeaway restaurant, and was later in use as a restaurant (use class E) until that use class ceased in 2020. Nevertheless, hot food takeaways and drive throughs are both considered to fall within a sui generis use class and as such, the change of use from Class E to a Sui-Generis use is required. The site is located within an established commercial area, with other food and beverage offers including Domino's, KFC, Festival Market cafes and the Station Pub. Regeneration policies also seek to re-use existing sites. Therefore, the principle of a mixed-use restaurant and drive through takeaway as per its historic use is difficult to resist, however this proposal in an out-of-centre location must first be assessed against the relevant retail policies and other material planning considerations.

5.2.2 Policy DM19 seeks to direct "town centre uses" towards defined centres and that the cumulative impact of the proposal will be considered in terms of the implications on the vitality and viability of the defined centres. The application is supported by an assessment of other sites some of which are located closer to the defined centre of Morecambe. Given the nature and scale of the proposed use (which includes a drive through element), and the historic nature of the site, the LPA is satisfied that the scheme cannot be accommodated on a more sequentially preferable site. Furthermore, the scale of the proposal being less than 500 sqm, does not result in an impact assessment being required. The site is close to public transport links and in a relatively sustainable location and, as such, the Sequential Test is considered to be passed and in broad terms, the proposed use is acceptable in principle, subject to other matters being satisfactorily addressed.

5.3 Design (NPPF Section 12; Policies DM21, DM29 and DM30)

5.3.1 The existing building is in a poor condition. The proposed external alterations (including new cladding) would result in an improved visual amenity, and are appropriate given the setting of the wider commercial area. Final details of external landscaping and planting can be secured through a planning condition and the layout and landscaping are not considered to be harmful to the visual amenities of the wider street. The Design & Access Statement details the applicant's commitment to tackling climate change, and measures that restaurants take to achieve this. Given that the proposal is a re-use of an existing building, on balance the proposed design and appearance of the building is considered to be acceptable.

5.4 Public Health (NPPF Sections 8 and 12; Policies DM20 and DM57)

5.4.1 Policy DM20 sets out that the Council will not support proposals for additional hot food takeaways within identified centres where more than 15% of Year 6 pupils or 10% of Reception pupils are classed as obese. The aim of this is to promote healthy places in the interests of public health and community wellbeing, in accordance with Lancashire County Council's Hot Food Takeaways and Spatial Planning Public Health Advisory Note. Public Health data for Harbour ward shows that 22% and 11.4% of Year 6 and Reception pupils respectively are obese. The thresholds prescribed by the Policy are exceeded; however, the Policy is only aimed at proposals in defined centres, and as the site location is outside of the town centre, and the principle of use has been considered acceptable as discussed above, a refusal on the grounds of public health is not recommended in this instance due to above policy wording and the siting of the proposed use.

5.5 Highways (NPPF Section 9; Policies DM29, DM61 and T2; MAAP AS3)

5.5.1 The previous application had been recommended for refusal due to inadequate queuing capacity for the drive-through, and knock-on effects on the surrounding road network and highway safety. This amended scheme includes a revised drive-through layout as part of further car park

reconfigurations, which allows for increased queuing capacity. The Applicants have engaged with County Highways prior to this resubmission, who have confirmed that the amended layout is acceptable and overcomes their previous concerns. The queuing capacity is now circa. 10 cars, which is a significant increase on the previous layout which allowed for 3 cars. Furthermore, additional queues will be able to build up in the car park before reaching the public highway. On this basis, the previous recommended reason for refusal is considered to be overcome, and the proposal is considered to be acceptable in terms of highway safety grounds.

5.5.2 The previous proposal has been amended and now includes designated pedestrian routes from Hilmore Way/Morrisons and Central Drive into the application site. This is supported as it ensures good pedestrian connectivity and promotion of linked trips. The site is located adjacent to bus stops and the railway station, and with cycle parking and EV charging spaces proposed, the proposal is therefore considered acceptable in terms of promoting sustainable transport methods.

5.5.3 There are proposals by Lancashire County Council and Sustrans to upgrade cycle routes in the local area, including widening the pavements on Central Drive. Having reviewed the proposed plans, whilst there are two slithers of landscaping area that overlap with the proposed cycle route upgrades, there is no overlap between built development. Therefore, the implementation of a drive through use would not hamper any planned future upgrades to the cycle network. It is understood that all the land would remain in the City Council's ownership, and any parts required for the cycle upgrades could be removed from Burger King's lease.

5.6 Environmental Considerations (NPPF Sections 12 and 15; Policies DM20, DM29 and DM31; MAAP AS1)

5.6.1 In terms of noise, odour and light pollution, the nearest residential property on Aldingham Walk is approx. 30m from the application site, and is separated from it by the access road and a railway siding. An acoustic report has been submitted which indicates that the predicted noise from the proposed plant installations will fall below the current background noise levels at the nearest sensitive receptors, and as such is unlikely to have any adverse impact with no further mitigation required. Furthermore, use of the drive-through lane and deliveries to the site are unlikely to generate any significant additional noise above existing/previous levels, and again no mitigation measures are required. An odour impact assessment has also been submitted to demonstrate that there will be no harmful impacts in terms of odours as a result of the extraction and ventilation systems. The area is already well lit, and any additional lighting is unlikely to result in a nuisance to the nearest residential properties. Overall, the scheme is acceptable in terms of residential amenity.

5.6.2 The matter of litter is covered by separate Environmental Protection Act legislation, however, Paragraph 174 of the NPPF does require planning proposals to enhance the local environment by improving local environmental conditions, Policy DM30 recognises that litter from hot food takeaways can affect the amenity of an area, and MAAP Action Set AS1 seeks improvements in street cleanliness. In response to this issue, the Applicant has stated that they will carry out three litter pick patrols every day and have four large external bins, and this can be conditioned on any approval.

**6.0 Conclusion and Planning Balance**

6.1 The application site has been empty and deteriorating for some time. The proposal would see the unit re-used, bringing it back into an active economic generating use and improving the visual condition of the building. The scheme is considered to be acceptable in terms of highways, pedestrian connectivity, noise, odour, and litter management issues. Accordingly, the proposal is compliant with the relevant local and national policies and is recommended for approval.

**Recommendation**

That Planning Permission **BE GRANTED** subject to the following conditions:

Condition no.	Description	Type
1	Standard Timescale	Control

2	Approved Plans and Details	Control
3	Landscaping Scheme	Control
4	Car park and drive-through layout implemented before first use	Control
5	Opening Hours	Control
6	Waste Management	Control

**Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

In accordance with the above legislation, Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been made having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/Guidance.

**Background Papers**

None