

Agenda Item	A5
Application Number	22/01452/FUL
Proposal	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
Application site	Frankie And Bennys Hilmore Way Morecambe Lancashire
Applicant	BKUK Group
Agent	Mr Chris Jones
Case Officer	Mr Patrick Hopwood
Departure	No
Summary of Recommendation	Refusal

(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 shares an access point on Hilmore Way and car park 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 and 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

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultee	Response
Town Council	No response received.
County Highways	Objection. Concerns that at peak times the traffic queuing for the order point could reach across the access way onto the adopted highway, blocking Hilmore Way and causing excessive delays to the local highway network, unacceptable in terms of highway safety.
Environmental Health	Recommend refusal. No information submitted on noise and odour, potential impacts on nearby residential receptors. Details of air quality and lighting also requested.
Natural England	No response received.
Planning Policy	Comments on the submitted retail Sequential Test and considers it to be passed.
Engineering Team	No response received.
Lancashire Constabulary	Crime and security advice provided.
Parking Services	Requests details of how the applicant will manage car parking spaces within their demised area.
Public Realm	Concerns in terms of corporate regeneration and place making aspirations, litter, anti-social behaviour, and impacts on highways and infrastructure.
Property Services	No response received.

4.2 One letter of support was received from a restaurant fit-out contractor in Blackpool.

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 ceased in 2020. Nevertheless, hot food takeaways and drive throughs are both considered to fall within a sui generis use class and as such change of use from Class E 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 would result in an improved visual amenity, and are appropriate given the setting of the wider commercial area. No sustainability measures have been included, however on balance the proposed design and appearance of the building is 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.

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

5.5.1 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.

5.5.2 There is no designated pedestrian route from Hilmore Way/Morrisons into the application site, without walking a short distance down the access road or via Central Drive. Details of how the applicant's car parking spaces will be managed have also not been provided. In the event of an

approval, details of a footway link and a parking management scheme could be secured through planning conditions to ensure good pedestrian connectivity, parking provision (including EV charging) and promotion of linked trips.

- 5.5.3 Policy DM29 expects new development to incorporate suitable and safe access to the existing highway network and ensure that highway safety and efficiency is maintained or improved. Paragraph 110 of the NPPF requires LPAs to ensure that safe and suitable access to the site can be achieved, with Paragraph 111 stating that development should be refused on highways grounds if there would be an unacceptable impact on highway safety. Policies T2 and DM61 seek to protect and improve the existing cycle network, and MAAP Action Set AS3 seeks to improve key cycling routes.
- 5.5.4 Based on the plans submitted, there is only space for approx. three vehicles behind the ordering point before vehicles would be queuing on the shared access road and then onto Hilmore Way. The Council and County Highways raised concerns on this basis, and requested further details of how queueing traffic would be accommodated.
- 5.5.5 In response, the applicant's Transport Consultant has provided a Technical Note using data from 4 sites on the TRICS (Traffic Rate Information Computer System) database. This anticipates that during the peak period, one vehicle will arrive every 110 seconds (approx. 30 per hour), and that Burger King's speed of service from arrival to departure is 3 minutes for each vehicle. The Technical Notes goes on to state that the drive through lane has been designed to accommodate up to 8 vehicles, and it would only reach full capacity in the unlikely scenario that circa. 15 minutes worth of vehicle demand arrived within a short space of time, or a vehicle was held up at the collection window for circa. 15 minutes. Mitigation in the form of "grill bays" in the car park have been proposed, to allow drivers to park and wait for longer orders clear of the drive through. The Technical Note concludes that based on likely demand and arrangements at the site, it is highly unlikely that the queue will extend beyond the drive through lane.
- 5.5.6 This further information has subsequently been reviewed by County Highways. County Highways note that the data taken from TRICS only covers Tuesday to Friday. A wider sample from TRICS taken by County Highways gives a trip rate some 30% higher than the consultants, and analysis of the proposed plans indicates that there is not space between windows to account for a total of 8 queueing vehicles at once. Based on the analysis by County Highways, the 7th vehicle queuing would be outside of the drive through lane, in the access road. Vehicles entering the car park and not using the drive through would have to pass this stationary vehicle by entering the path of oncoming traffic leaving the car park. Further vehicles queuing to use the drive through, and vehicles waiting for a gap in oncoming traffic to enter the car park, would then cause a tailback and block the adopted highway Hilmore Way. Given the high usage of this road (which serves Morrisons supermarket and petrol station, B&M, Homebase, Next, car and coach parks, and retail delivery areas) by cars, HGVs and coaches, excessive delays would be felt on the local highway network. A designated cycle route crosses the access to the site, and queuing vehicles would block this and cause further highway safety risks. Anecdotally, it is understood that other fast food drive through sites in the County are very busy at peak times, although many of these have their own car parks which queues will first form in before impacting on the public highway.
- 5.5.7 Based on the plans and information submitted, the proposal would result in significant negative impacts on the local highway network through queuing, prevention of access and delays, and be unacceptable in terms of highways safety. For these reasons the proposal is unacceptable in terms of highways impacts.
- 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. The proposed use is unlikely to generate any significant additional noise above existing/previous levels. However, details of extraction and plant equipment could be secured through a planning condition in the event of an approval, to ensure no adverse noise and odour impacts. The area is already well lit, and any additional lighting is unlikely to result in a nuisance to

the nearest residential properties, although external lighting could be controlled through a further planning condition.

- 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 everyday, and are content for details of this to be conditioned on any approval. In the event of the application being minded for approval, the matter could be considered further between the Council and the Applicant.

6.0 Conclusion and Planning Balance

- 6.1 The application site has been empty and deteriorating for some time, and 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. Subject to planning conditions and further negotiations the scheme could also be acceptable in terms of pedestrian connectivity, noise, odour, light pollution, car parking, and litter management. However, the lack of capacity in the drive through lane for queuing would result in an adverse impact on the local highway network. In this instance, the benefits of the proposal are not considered to outweigh the negative highway impacts, and as such the application is recommended for refusal.

Recommendation

That Planning Permission **BE REFUSED** for the following reason:

1. The submitted scheme fails to provide adequate capacity for vehicles queuing to use the proposed drive through. Accordingly, the scheme would result in queuing vehicles on the shared access road, on the adopted highway Hilmore Way, and across the designated cycleway, leading to queuing traffic, delays, and blocking of access. These significant negative impacts on the local highway and cycling network would be detrimental to highway safety contrary to the relevant aims and objectives of Policies DM29 and DM61 of the Development Management Development Plan Document, Policy T2 of the Strategic Policies and Land Allocations Development Plan Document, Action Set AS3 of the Morecambe Area Action Plan and Section 9 of the National Planning Policy Framework.

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

In accordance with the above legislation, the City Council can confirm that it takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a pre-application service, aimed at positively influencing development proposals. Regrettably the applicant has failed to take advantage of this service and the resulting proposal is unacceptable for the reasons prescribed in this report. The applicant is encouraged to utilise the pre-application service prior to the submission of any future planning applications, in order to engage with the local planning authority to attempt to resolve the reasons for refusal.

Background Papers

None.