

<u>APPLICATION NO:</u>	24/00461/FUL	<u>CASE OFFICER:</u>	Kim Vo
<u>WARD:</u>	Roby	<u>PARISH:</u>	
<u>LOCATION:</u>	34 Tarbock Road, Huyton, Knowsley		
<u>PROPOSAL:</u>	CHANGE OF USE OF FLAVIO'S ITALIAN RESTAURANT (USE CLASS E (b) TO A CONVENIENCE STORE (USE CLASS E (a) (NO EXTERNAL ALTERATIONS)		

Site Description

The application relates to a single storey building at no.34 Tarbock Road which has a previous use as a restaurant (Class E(b)). There is existing hard surfacing to the front and south side and the site is accessed via a one-way system. The application site is located within a Primarily Residential Area as defined by Saved Policy H5 of the Knowsley Replacement Unitary Development Plan (UDP) (Adopted June 2006).

Proposal

The proposal seeks consent for the change of use of the former restaurant (Class E(b)) to a convenience store (Class E(a)). No external alterations are proposed to the application building. The 4no. existing parking spaces to the front of the site will be retained, with 2no. staff only parking spaces to be provided to the south. An external service area to the south which will also be created and used as a storage area for waste bins. 4no. cycle parking spaces are to be provided to the north side of the building and the one-way vehicle system will be retained. The proposed openings hours are 07:00am to 23:00pm from Mondays to Sundays and Bank Holidays. The proposed use will have 2no. full-time employee and 2no. part-time employees.

Consultations

Highway Authority (25.10.2024): Objects to the proposal. Based on the floor area of 480m², 34no. parking spaces are required for the proposed food retail use. No public parking is proposed and is likely to lead to an increase of on-street parking. There is an existing cycle lane adjacent to the site that must remain unobstructed. Allowing on-street parking could lead to customer vehicles blocking this lane. It is also noted the development is near to a primary school and increased on-street parking would create additional hazards for pedestrians, especially young children.

Environmental Health (11.10.2024): No objection subject to conditions relating to fixed plant and machinery, construction hours, opening times, delivery times, and waste storage and removal. Clarification was also requested to confirm if any extraction/ventilation equipment is to be installed.

Representations

This application has been publicised by letters sent to 14no. neighbours. No representations have been received.

Planning History

15/00279/FUL - Change of use of former car sales/showroom (use class sui generis) to restaurant (Use Class A3) together with associated car parking and installation of external extraction duct situated to rear elevation. Granted, 23.06.2015.

14/00001/COU - Change of use from car sales showroom (Sui Generis) to mixed use

including car wash (Sui Generis) and valeting service (B2). Refused, 13.03.2014 and Dismissed at Appeal, 14.08.2014.

99/00222/ADV - Display of 1no. single side free standing 6 sheet advertisement. Granted, 15.07.1999.

74/12105/HIST - Woodlands Service Station Tarbock Road Huyton:- Erection of extension to existing pump island new pump pipework alterations and new tank. Granted, 06.11.1989.

74/11442/HIST - Tarbock Service Station Tarbock Road Huyton:- Installation of above ground diesel tank and petrol pump. Granted, 20.03.1989.

74/10143/HIST - Tarbock Service Station Tarbock Road Huyton:- Alterations to existing vehicular access new pump and installation of 3000 gallon diesel tank. Granted, 20.04.1987.

74/08939/HIST - Tarbock service station Tarbock Rd Huyton:- Proposed improvements to shop and conversion to self-serve pumps. Granted, 20.06.1985.

74/08506/HIST - Woodlands Service Station Tarbock Road Tarbock:- 3no. illuminated canopy fascias 5no. illuminated canopy column signs illum shop sign illum ID sign. 06.09.1984.

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

Knowsley Local Plan Core Strategy (January 2016)

Policy CS1: Spatial Strategy for Knowsley

Policy CS2: Development Principles

Policy CS4: Economy and Employment

Policy CS6: Town Centres and Retail Strategy

Policy CS7: Transport Networks

Policy CS19: Design Quality and Accessibility in New Development

Policy CS26: Waste Management

Saved Policies - Knowsley Replacement UDP (June 2006)

Policy H5: Development within Primarily Residential Areas

Policy S9: Shop Fronts and Security Shutters

Policy ENV2: Noise and Vibration

Merseyside and Halton Joint Waste Local Plan

Policy WM 9: Sustainable Waste Management Design and Layout for New Development

Supplementary Planning Documents (SPDs)

Ensuring a Choice of Travel (September 2010)

Design Quality in New Development (January 2016)

Shopfronts and Signage Design (June 2023)

National Policies

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Assessment

The main considerations for this application are:

- Principle of Development;
- Design and Visual Amenity;
- Neighbouring Amenities;
- Parking and Highway Safety;
- Waste Management;
- Biodiversity Net Gain.

Principle of Development

Policy CS1 of the Local Plan states that the spatial development for Knowsley will be achieved by, amongst others, focusing development within existing urban areas.

Policy CS2 of the Local Plan outlines that new development should promote sustainable economic development by, amongst others, meeting needs for new employment, retail and other service provision and improving business productivity. Policy CS4 of the Local Plan also seeks to support sustainable economic growth.

Saved Policy H5 of the Knowsley Replacement UDP states that new development within the Primarily Residential Areas (or proposals for the change of use or redevelopment of existing buildings) will be permitted provided that the development, would not have an unacceptable impact on the amenity of neighbouring occupiers.

Paragraph 85 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.

The application site is located within a primarily residential area. However, the surrounding uses include a primary school, a vehicle repair shop, as well as a care

home. The 'Tarbock Road, Huyton - Major Local Centre' is also situated to the north and includes several commercial, business and service uses. Given that the proposal involves no external alterations and would retain the commercial use of the building, it is considered that it would be in keeping with the surrounding area, in accordance with Saved Policy H5 of the Knowsley Replacement UDP. The application site is also located within a Primarily Residential Area, within the large suburban centre of Huyton. As such, the site is appropriately and sustainably located in accordance with Policy CS1 of the Local Plan. Moreover, the proposal would retain the commercial use of the site and would bring a vacant unit back into active use. This would provide a new service provision for the local area and support sustainable economic development, in accordance with Policy CS2 and CS4 of the Local Plan and the NPPF. The principle of the development is therefore, considered to be acceptable.

Retail Sequential Test and Retail Impact

Policy CS4 of the Local Plan and Paragraph 91 of the NPPF states that new retail and other main town centre uses will be primarily located within existing town centres in accordance with Policy CS6. A sequential approach to site selection shall be applied with locations in existing town, district and local centres of an appropriate scale being considered first, then edge of centre locations and then only if suitable sites are not available should out of centre sites be considered.

Policy CS6 of the Local Plan states that proposals for retail and other 'main town centre uses' outside Knowsley's Hierarchy of Centres will only be permitted if they would complement regeneration opportunities, avoid significant impact upon the viability and vitality of the town, district and local centres, and comply with the sequential test in Policy CS4.

Paragraph 5.56 of the Local Plan and Paragraph 94 of the NPPF explains that when assessing applications for retail development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace).

The proposal will involve a change of use from a restaurant (Class E(b)) to a convenience store (Class E(a)). Whilst movement within Class E uses is permitted development, condition 14 of planning approval ref: 15/00279/FUL had restricted the premises to a restaurant use only. As such, planning permission is required for a change of use and is being applied for under this application. The application site is over 600m away from the Primary Shopping Area of Huyton Town Centre. The site is therefore, considered to be an out-of-centre location, as defined in the NPPF and in respect of Policy CS4 and CS6 of the Local Plan. Given that the site is out of centre and seeks for a retail use, a sequential test is normally required. However, both restaurants and convenience stores are defined as main town centre uses in the glossary at Appendix A of the Local Plan and at Annex 2 of the NPPF. As such, the proposed change of use from a restaurant to a convenience store would maintain the existing main town centre use of the site and a Sequential Test is therefore, not required. The proposal also falls below the 2,500sq.m. gross threshold for triggering the provision of a Retail Impact Assessment. The principle of the development is therefore considered acceptable, in accordance with the above policies.

Impact upon Design and Visual Amenity

Policy CS2 of the Local Plan Core Strategy seeks to promote good quality design and ensure that development respects its setting taking into account relevant design requirements, and best practice. Policy CS19 of the Local Plan Core Strategy requires, amongst others, new developments to respond to and integrate positive

characteristics of immediate surroundings, including local materials, scale, mass, form, layout, alignment and density of the existing built environment. The Design Quality in New Development SPD (January 2016) sets out the Council's aspirations and expectations for design standards in new development. Paragraph 135 of the NPPF requires planning policies and decisions to ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Saved Policy S9 of the Knowsley Replacement UDP requires proposals for new or altered shopfronts to relate well to the street scene in terms of materials, form and proportions and provide good access for all members of the community. The Shopfront and Signage Design SPD provides further guidance that relate to the design of and alteration to shopfronts and signage.

The application building is highly visible from Tarbock Road. However, the proposal relates to the change of use only and involves no external alterations. As such, it is considered that the proposal would be acceptable in terms of its impact upon design and visual amenity, in accordance with the policies listed above.

Neighbouring Amenity

Policy CS19 of the Local Plan Core Strategy and Paragraph 135 of the NPPF seeks to maintain a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy H5 of the Knowsley Replacement UDP states that new development within the Primarily Residential Areas (or proposals for the change of use or redevelopment of existing buildings) will be permitted provided that the development, amongst others, would not have an unacceptable impact on the amenity of neighbouring occupiers by reason of noise, disturbance, overlooking, visual intrusion, smells, fumes, on-street parking or other causes. Saved Policy ENV2 of the Knowsley Replacement UDP states that development that will either cause an unacceptable increase in noise or vibration levels or itself be subject to unacceptable noise or vibration from an existing source will not be permitted.

The proposed food retail use will maintain the existing commercial use of the site and is considered to complement the non-residential uses of the wider area, which includes a primary school, a vehicle repair shop, a care home and several commercial, business and service uses at the nearby 'Tarbock Road, Huyton - Major Local Centre'. Whilst the proposal will result in an active use of the building, the level of activity and movement will be similar to the site's previous use as a restaurant. The proposal also involves no external alterations or any increase in floorspace and therefore, the impact in terms of noise and disturbance is deemed to be limited. Environmental Health have also raised no objections, subject to conditions which include restricting the opening hours from 07:00am to 23:00pm from Monday to Sunday and Bank Holidays. Subject to the above condition, the proposal would have an acceptable impact on the amenities of the existing residential and neighbouring properties surrounding the site, in accordance with the policies listed above.

Conditions have also been requested from Environmental Health to restrict construction periods to certain hours/days, and for restrictions in relation to noise from fixed plant and machinery. However, the proposal is for the change of use only, with no external works or developments proposed. As such, the Local Planning Authority will not include these conditions, as they are not necessary or relevant to this application.

Parking and Highway Safety

Policy CS7 of the Local Plan Core Strategy states that new development will be required to be, amongst others, located and designed to prioritise accessibility and

sustainable modes of travel through a choice of walking, cycling, public transport, and incorporate access for private vehicles. The Ensuring a Choice of Travel SPD (September 2010) provides the parking standards for each land use type. Paragraph 115 of the NPPF states that 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 would be severe.

Highways have been consulted and have raised an objection, stating that the proposed food retail use has a floor area of 480sq.m. and therefore, 34no. parking spaces are required. No public parking is proposed and the provision of car parking for staff use only (2no. spaces) is likely to lead to an increase of on-street parking. There is also an existing cycle lane adjacent to the site that must remain unobstructed and allowing on-street parking could lead to customer vehicles blocking the lane, jeopardising the safety of cyclists and discouraging sustainable transport options. It is also noted this development is near to a primary school and increased on-street parking would create additional hazards, impacting the safety and accessibility for pedestrians, especially young children.

In response to Highways comments, the Local Planning Authority considers that the floor area has been measured incorrectly, as the gross floor space of the proposal is much lower, measuring approximately 156sq.m. and not 480sq.m. Appendix A of the Ensuring a Choice of Travel SPD requires 1no. parking space per 14sq.m. for food retail uses. As such, a total of 11no. parking spaces are required and not 34no. Nevertheless, Highways objection was put forward to the applicant's agent who has since provided amended plans to retain the existing 4no. parking spaces to the front of the site and 2no. parking spaces for staff only to the south. A total of 6no. vehicle parking spaces will therefore be provided.

Whilst this would not achieve the parking standards, the application site is sustainably located within walking distance to public transport services and 4no. cycle parking spaces will also be provided. The Local Planning Authority are therefore satisfied that the amended plans would overcome Highway's objection, as the retention of 4no. public parking spaces within the site would prevent on-street parking along Tarbock Road. Moreover, the demand for parking is likely to be lower than the former restaurant use, given the nature of the proposed food retail use and its customers who will be visiting the site for much shorter periods of time. It is important to note that the permitted use of the site is as a restaurant which has a parking requirement of 1 space per 5 sq metres of public floorspace, this compares to the requirement for a shop being 1 parking space per 14 sq metres. Therefore the shortfall in parking is significant less for the proposed use when compared to the lawful use of the building.

The one-way access system would also be maintained as existing, and conditions will be attached to ensure that the vehicle and cycle parking spaces are to be provided and retained. As such, on balance, it is considered that the proposal would have an acceptable impact upon access, parking and highway safety, in accordance with the policies listed above.

Waste Management

Policy CS26 of the Local Plan sets out that the Council will promote sustainable forms of waste management in accordance with the waste hierarchy through, amongst others, encouraging good design in new development in order to minimise waste, promote the use of reclaimed and recycled materials and to facilitate the collection and recycling of waste. Policy WM9 of the Merseyside and Halton Waste Local Plan requires, amongst others, that the design and layout of new built developments facilitates the collection and storage of waste and provide sufficient

access to enable waste and recyclable materials to be easily collected and transported for treatment.

The submitted plans indicate that sufficient waste storage arrangements will be available to the south within the external service area. Environmental Health have requested for a condition to restrict the use of the external refuse area outside the hours of 08:00am to 20:00pm. A condition will also be attached to secure the proposed waste storage provisions. Subject to these conditions, the proposal is considered acceptable in terms of waste management and storage, in accordance with the policies listed above.

Biodiversity Net Gain (BNG)

The Environment Act 2021 introduced a new mandatory requirement for Biodiversity Net Gain to ensure that most new developments increase baseline biodiversity value by a minimum of 10%. However, the Biodiversity Gain Requirements (Exemptions) Regulations 2024 prescribe exemptions for categories of development to which biodiversity net gain does not apply. This includes development that does not impact a priority habitat and impacts less than: 25sq.m (5m by 5m) of on-site habitat and 5m of on-site linear habitats such as hedgerows.

The application site is fully hard surfaced and contains no priority habitats or on-site linear habitats which will be affected by the proposed development. The proposal is therefore considered to fall below the de minimis threshold and would be exempt from delivering BNG.

Conclusion

The principle of the proposal is considered to be acceptable. The proposed development would also have an acceptable impact upon neighbouring amenities; design and visual amenity; parking and highway safety; and waste management. The proposal is would also be exempt from delivering BNG. On this basis, the proposal complies with all relevant local and national planning policies and guidance.

Recommendation

That Planning Permission be granted subject to the following Condition(s):-

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2) The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

- 3) The development hereby approved shall not be open or in operation outside the following times of 07:00am to 23:00pm from Mondays to Sundays and Bank Holidays.

Reason: In the interests of protecting the amenities of neighbouring occupiers, in accordance with Policy CS19 of the Knowsley Local Plan Core Strategy, adopted January 2016, Saved Policy H5 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted in June 2006, and the National Planning Policy Framework.

- 4) Prior to the development hereby approved being first brought into use, the provision for waste and recycling facilities as shown on the approved plans shall be made available for use and thereafter retained.

Reason: To ensure satisfactory provision for waste and recycling facilities is provided in accordance with Policy CS26 of the Knowsley Local Plan Core Strategy, adopted January 2016 and Policy WM9 of the Merseyside and Halton Waste Local Plan.

- 5) No waste collections or use of the external refuse area, as shown on the approved plans, shall take place outside the hours of 08:00am to 20:00pm from Monday to Sundays and Bank Holidays.

Reason: In the interests of protecting the amenities of neighbouring occupiers, in accordance with Policy CS19 of the Knowsley Local Plan Core Strategy, adopted January 2016, Saved Policy H5 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted in June 2006, and the National Planning Policy Framework.

- 6) Prior to the development hereby approved being first brought into use, the access and parking area as shown on the approved plans shall be provided and thereafter retained.

Reason: To ensure that adequate access and parking provision is made on the site in accordance with Policy CS7 of the Knowsley Local Plan Core Strategy, adopted January 2016, The Ensuring a Choice of Travel SPD (September 2010) and the National Planning Policy Framework.

- 7) Prior to the development hereby approved being first brought into use, the space and facilities for bicycle parking as shown on the approved plans shall be provided. These facilities shall then be retained and permanently reserved for bicycle parking.

Reason: To ensure that adequate and satisfactory provision is made for bicycle parking in accordance with Policy CS7 of the Knowsley Local Plan Core Strategy, adopted January 2016, The Ensuring a Choice of Travel SPD (September 2010) and the National Planning Policy Framework.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
29.08.2024	1		Site Location Plan
28.10.2024	3	Rev. 3	Existing and Proposed Site Plans - Rev. A
29.08.2024	3		Existing and Proposed Floor Plans (No External Alterations)

Signed Case Officer¹: **Kim Vo**

Signed Authorising

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

Officer²:

K Foster

Date:

31 October 2024

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed