
<u>APPLICATION NO:</u>	23/01243/FUL	<u>CASE OFFICER:</u>	Mark Quinn
<u>WARD:</u>	Roby	<u>PARISH:</u>	
<u>LOCATION:</u>	Simply Food And Drinks , 9 Tarbock Road, Huyton		
<u>PROPOSAL:</u>	THE ERECTION OF A FLUE TO THE WALL OF THE REAR ELEVATION OF THE BUILDING (FOR ODOUR CONTROL PURPOSES)		

Site Description

This application relates to a retail unit in a major local centre at Tarbock Road, Huyton.

No 9 is located in the middle of the parade of units and the centre contains a convenience store, pharmacy, bookmakers, café, dry cleaners and two hot food takeaways (one is authorised Gold star at No 13 and one is unauthorised Prepresh at No 15).

There are residential premises above the majority of the ground floor units. To the rear, side and on the opposite side of Tarbock Road are residential premises.

Proposal

It is proposed to install a flue (for odour control purposes) to the rear wall of the premises. The fume extraction system would exit the kitchen through the roof of the single storey rear extension, run the width of the extension (2.4m) then around the corner to the side elevation of the premises for a distance of 2.8m and then would run up the side wall to a height of 900mm above the level of eaves of the building. The flue would have a diameter of 400mm and would be finished in black.

Whilst a planning application for a hot food takeaway was refused in May 2023 the applicant has now decided to open the former off licence as a restaurant which would fall within the same use class as an off licence (Use Class E) and therefore would not require the benefit of planning permission, however odour control measures would still be required and planning permission would be required for the external works comprising the flue.

Alterations to the shop front where originally included in this application but have subsequently been withdrawn.

Consultations

Environmental Health - No objections in principle

Representations

This application has been publicised by letters sent to 85 neighbours.

There have been 1 letters of objection, 0 letters of support and 0 letters of comment. The representation is summarised as follows:-

1. Erecting a chimney will not solve the problem with smells and will add to the stench we have already got.
2. It will be another eyesore to look at from the back garden (like the 3 rusty chimneys on the chip shop roof)
3. We have to shut our patio doors at 5pm due to the odours.
4. Existing problems with rubbish everywhere.

Planning History

23/00177/FUL - CHANGE OF USE FROM OFF LICENCE (USE CLASS E) TO HOT FOOD TAKEAWAY (USE CLASS SUI GENERIS). - Refused May 2023.

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

CS19 - Design Quality and Accessibility in New Development

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

H5 - Development within Primarily Residential Areas

ENV2 - Noise and Vibration

National Planning Policy Framework

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

Principle of Development

The application site is allocated as a primarily residential area on the Knowsley Local Plan Policies Map. The installation of a chimney for odour control purposes would be acceptable in principle subject to the visual impact, impacts on residential amenity and the design of the odour control system.

Saved UDP policy H5 states “ *New development within the Primarily Residential Areas (or proposals for the change of use or redevelopment of existing buildings) which is for uses appropriate to a residential area will be permitted provided that the development (either by itself or in conjunction with other developments) would not:*

- a) 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; or*
- b) Adversely affect the character or street scene of the area.*

Visual Amenity

The odour extraction flue would exit the roof of the single storey rear extension, then turn around to the two-storey side elevation and would run up this side wall at the rear of the premises. The flue would then run up to first floor level (0.9m above eaves height). The flue would have a diameter of 400mm and would be sited 2.0m from a main habitable window in the rear elevation (serving a living room) and 0.5m from a small window in the side elevation (serving a kitchen). However, should planning permission be granted a condition will be required prevent the use of the first floor of the premises as residential at any time whilst the ground floor is in use as a restaurant.

The flue is proposed to be finished in black to minimise its impact and as such it would not have a significant impact on the amenity of nearby/adjacent occupiers. From a wider visual perspective, the flue would not be visible from Tarbock Road however it could be viewed from the rear access yard and to a degree from the rear elevations of adjacent dwelling in Wilton Road (at approximately 35m). On balance it is not considered that the flue as submitted would have any significant impacts to visual or residential amenity to warrant a refusal of permission.

The proposal would therefore be in accordance with Saved UDP policy H5.

Residential Amenity

Saved UDP policy H5 states “ *New development within the Primarily Residential Areas (or proposals for the change of use or redevelopment of existing buildings) which is for uses appropriate to a residential area will be permitted provided that the development (either by itself*

or in conjunction with other developments) would not:

a) *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*

b)

Saved UDP policy ENV2 states

"1. 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.

2. Where developments are permitted, conditions may be attached to the planning permission to ensure effective noise insulation or other required mitigation measures are carried out"

Local Plan policy CS19 states that

To enhance the local distinctiveness, identity and accessibility of places, new development within Knowsley will be expected to:

2) To maintain a good standard of amenity for all existing and future occupants of land and buildings, development proposals will be required to:

a) Avoid unacceptable impacts on existing residents, business occupiers, and future occupiers.

The application has been accompanied by a ventilation strategy including specification of the proposed odour extraction system.

The odour control system will be using carbon filters and would be fitted with an acoustic silencer. The fans would be located internally to reduce the noise emissions. Providing the odour extraction system is installed in accordance with the submitted ventilation strategy and is not used outside the hours of 9am to 11pm on any day then it is not considered that the proposal would have any significant impacts on the amenity of residents of nearby properties and would be in compliance with Local Plan policy CS19 and saved UDP policies H5 and ENV2.

There is however a concern about the proximity of the existing (currently unoccupied) residential accommodation on the first floor of the premises to the fume extraction system and in particular the harm which would be caused to future residents due to noise, odour, vibration and general disturbance.

The first floor accommodation is currently vacant and the applicant has advised that he intends to leave this part of the premises vacant. Therefore, it is considered reasonable to secure by planning condition that whilst the ground floor of the premises is in use as a restaurant the first floor of the premises cannot be used for residential use. This would prevent an unacceptable conflict between uses within the premises and ensure compliance with Local Plan policy CS19 and Replacement UDP saved policies H5 and ENV2.

Conclusion

The visual impacts of the proposal are considered to be acceptable, and the siting and appearance of the flue would not be detrimental to the street scene or the impacts on the amenity of nearby occupiers.

The odour extraction system would be designed such that the impacts on neighbouring

occupiers (in terms of noise/odour/disturbance) are minimised.

The proposal would be in compliance with Local Plan policy CS19, and UDP saved policies H5 and ENV2.

Recommendation

That planning permission be granted subject to the following conditions:

- 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) Notwithstanding its lawful use, the first floor of the premises shall not be used for residential purposes at any time whilst the use of the ground floor of the premises is as a restaurant.

Reason : To prevent an unacceptable conflict between uses within the site, avoid unacceptable impacts on future residents, and ensure compliance with Local Plan policy CS19 and Saved UDP policies H5 and ENV2. Use of the ground floor as a restaurant will result in use of the flue hereby permitted. Use of the flue will have an unacceptable impact on the amenity of future residential occupants of the first floor of the premises by way of noise, vibration, smell and general disturbance.

- 4) No part of the development hereby granted permission shall be brought into use until evidence has been submitted to the Local Planning Authority (LPA) and approved in writing that:

- a. The equipment, as recommended in the Ventilation Strategy by Fusion Hot Ltd, has been installed and is operating correctly.

For the avoidance of doubt the equipment will include the following:

1. Longar type 3 baffle filters
2. Rydair ry500 Electrostatic Precipitation unit
3. FusionAir 10mm ozone injection unit

- b. The stack serving the proposed development shall be installed in accordance with the Ventilation Strategy by Fusion Hot Ltd

For the avoidance of doubt the stack and associated equipment shall:

1. Terminate at least 1 metre above the roof eaves via a high velocity discharge jet cowl, without any obstruction at the end.
2. Be attached to solid structures using anti-vibration mountings.
3. Be fitted with an acoustic silencer on both the input and output face of the box fan, as stated in the document and which is all installed internally.

The system shall be operated and maintained in accordance with the manufacturers recommendations.

Any deviations from the above scheme must be agreed in writing with the LPA, prior to the changes being made.

Reason : For the avoidance of doubt and to protect the amenity of any occupiers of nearby residential accommodation and to ensure compliance with Local Plan policy CS19 and Saved UDP policies H5 and ENV2.

- 5) The extract system serving the kitchen shall not operate outside the hours of 0900 to 2300 on any day.

Reason : To protect the amenity of any occupiers of nearby residential accommodation and to ensure compliance with Local Plan policy CS19 and Saved UDP policies H5 and ENV2.

- 6) Fixed plant and equipment associated with the development shall be designed to a level that is at least 5dB(A) below the existing LA90 background noise level as measured during the relevant time period. Any tonal, impulsive and/or irregular noise would be addressed by imposing a penalty as per the methodology set out in BS 4142:2014+A1:2019, Methods for Rating and Assessing Industrial and Commercial Sound. Noise limits for fixed plant are to apply at a position 1 metre from the closest affected window of the nearest noise sensitive property.

Reason :To protect the amenity of any occupiers of nearby residential accommodation and to ensure compliance with Local Plan policy CS19 and Saved UDP policies H5 and ENV2.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
10/08/2023	10.08.23	-	REVISED VENTILATION STRATEGY
09/06/2023	p2c/uk/926070/1249 569	-	LOCATION PLAN
17/08/2023	HUYIN-SL-BA-XX- DR-A-0001	REV C	EXISTING AND PROPOSED FLOOR PLANS AND ELEVATIONS
09/06/2023	b36c/uk/926070/124 9566	-	SITE PLAN

Signed Case Officer¹:

Mark Quinn

**Signed Authorising
Officer²:**

K Foster

Date:

18 August 2023

Informatives

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

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Appendix 1 – Site Photographs



