

Committee Report

Application No:	DC/21/00268/FUL
Case Officer	Rebecca Norman
Date Application Valid	2 March 2021
Applicant	Mr Mohammed Saleem
Site:	13-15 Glynfellis Leam Lane Estate Felling NE10 8RH
Ward:	Windy Nook And Whitehills
Proposal:	Proposed first floor extension providing storage area, staff facilities and managers flat (amended plans 26.05.2021)
Recommendation:	DEFER
Application Type	Full Application

1.0 The Application:**1.1 DESCRIPTION OF THE SITE**

The application relates to an existing hot food takeaway premises known as Saleems which occupies the northernmost unit in a small parade of single storey shops within the residential neighbourhood of Leam Lane, Felling.

1.2 The unit is surrounded by two storey residential properties to the east, west and north and partly fronts onto an area of public open space, with adjoining commercial premises to the south. To the rear of the site is an access road which serves the units and the surrounding residential properties and garage block on Wealcroft, Beechway and Blackthorn.

1.3 The unit sits to the western side of the site, with an existing single storey extension (approved under application DC/15/01138/FUL) to the north elevation. To the north of this extension and to part of the rear of the unit is a yard area that is accessed from the adjacent road, with a further single storey extension (approved under DC/20/00424/FUL) currently being constructed to the rear of the premises.

1.4 The application site is not within an identified retail centre.

1.5 DESCRIPTION OF APPLICATION

The application seeks planning permission for the construction of a first floor extension to provide a storage area, staff facilities and manager's flat.

1.6 The proposed extension would be accessed via an external door proposed to be created within the front elevation of the building, with internal stairs leading to a landing area. The proposed storage rooms and staff facilities and w/c would occupy the northern portion of the proposed extension, and the proposed manager's flat would occupy the southern portion of the extension,

comprising a kitchen, lounge and dining room, 2no. bedrooms, a bathroom and store cupboard.

1.7 RELEVANT PLANNING HISTORY

Application site

DC/09/01441/FUL - Installation of new extraction system and ductwork on roof of hot food take-away shop (retrospective application). Planning permission refused 15.12.2009

DC/10/00307/FUL - Installation of new extraction system and ductwork on roof of hot food take-away shop (retrospective application). Planning permission granted 19.05.2010

DC/14/00560/ADV - Display of internally illuminated fascia sign size 6.55m x 1.29m on front elevation of hot food take-away shop. Temporary consent granted 07.07.2014

DC/15/01138/FUL - Single storey side extension and installation of ventilation equipment - Granted 22.03.2016

DC/20/00424/FUL - Enclosure of rear yard to form extension, installation of roller shutter door and fire escape (amended plans 22.06.2020, 08.07.2020 and 11.11.2020). Planning permission granted 25.11.2020.

Adjoining buildings

DC/05/01152/FUL - Erection of part first-floor/part two-storey extension over existing shop and at rear to provide residential flat and garage (use class C3), change of use of living accommodation on ground floor to shop (use class A1) and installation of new shop fronts – Planning permission granted 04.10.2005 (NB permission not built).

DC/08/00342/FUL - Erection of first-floor extension above existing dwelling (revised application). Planning permission refused 02.05.2008.

2.0 Consultation Responses:

None undertaken

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in The Town and Country Planning (Development Management Procedure) Order 2015. This publicity period ends on 11 August 2021.

3.2 A total of 10no. letters of representation have been received to date, of which 9no. object to the proposed development (including 6no. representations from 1no. household) and 1no. is in support of the proposed development.

3.3 The 1no. letter of support can be summarised as follows:

- The development would cut down on vandalism and would form an additional pair of eyes in the area

3.4 The 9no. Letters of objection can be summarised as follows:

- Out of character with streetscene
- Detrimental impact upon visual amenity
- The proposed extension would be an eyesore
- Overdevelopment of site as a result of the scale of the extension
- Loss of privacy/overlooking
- Overbearing impact
- Loss of light to nearby properties
- Additional noise
- Health concerns relating to bins
- Concerns relating to cooking smells/odours
- Disturbance early mornings/late evenings
- An increase in traffic would exacerbate existing access concerns
- Inadequate parking for the proposed development
- The proposed extension would overhang and potentially obstruct the highway
- Work has commenced on site already
- The takeaway vent may be a health and safety concern for the proposed flat
- The foundations of the building were built as a single storey, not to be built on top of
- What will happen to the drains in the yard?
- The applicant owns the next door property so could use that instead, as he is going to make the garden into a driveway for delivery vehicles
- How many rooms will the flat have?

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS7 Retail and Centres

CS9 Existing Communities

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

MSGP12 Housing Space Standards

MSGP15 Transport Aspects of Design of Dev

MSGP18 Noise

MSGP17 Residential Amenity

MSGP24 Design Quality

MSGP48 Waste Management Facilities - New Dev

HFTSPD Hot Food Takeaway SPD

5.0 Assessment of the Proposal:

5.1 The main planning issues to be taken into consideration in the assessment of this application are the principle of the development, impacts upon visual amenity, impacts upon residential amenity, highway safety and parking, CIL, and any other matters.

5.2 BACKGROUND

On 19 January 2021 the latest Housing Delivery Test (HDT) results were published. These show that the Council's housing delivery was significantly below the expectations of the National Planning Policy Framework (NPPF). The presumption in favour of sustainable development outlined at NPPF Paragraph 11d) is therefore engaged.

5.3 THE PRINCIPLE OF THE DEVELOPMENT

The application site is not allocated for a particular use in the Council's Local Plan; the application is therefore to be considered on the basis of its merits.

5.4 Housing demand and policy

Policy CS10 of the Local Plan for Gateshead states that 11,000 new homes (excluding purpose-built student accommodation) will be built in Gateshead over the period April 2010 to March 2030. The proposed manager's flat would contribute to local housing stock in the Borough and is therefore in accordance with Local Plan policy CS10.

5.5 Given that the site is not allocated for any specific purpose this is classed as a windfall housing site. Having regard to the circumstances of the site, which is within a residential area within proximity of local services and transport links, this is considered to be, in principle, an appropriate location for a new residential accommodation.

- 5.6 Officers consider that the principle of new housing development on this site would accord with the NPPF, subject to all other material planning considerations being satisfied. Having regard to the circumstances of the site it is further considered that the proposed scheme would be acceptable in terms of NPPF Paragraph 124 and 125 which require development to make efficient use of land.
- 5.7 **Housing choice**
Policy CS11(1) of the Local Plan for Gateshead requires that a minimum of 60% of new private housing across the plan area is suitable and attractive for families, with a minimum target of 16,000 new homes to have three or more bedrooms. Local Plan policy CS9 seeks to ensure that existing communities will be sustainable places of quality and choice which should be achieved by, amongst other things, maintaining a range of housing types and sizes throughout the plan area.
- 5.8 The proposed two bedroom flat would not fulfil the target sought by policy CS11(1) however would contribute to housing stock in the Borough, and as this is a plan-wide target Officers consider that the proposed development would not prejudice the overall aim of this policy.
- 5.9 **Residential space standards**
Policy CS11(4) of the Local Plan for Gateshead requires that new residential development provides *"adequate space inside and outside of the home to meet the needs of residents"*.
- 5.10 Local Plan policy MSGP12 requires new residential developments to be built in accordance with the Nationally Described Space Standards (NDSS) or equivalent standards, as a minimum, in order to achieve a high standard of amenity and protect the living conditions of residents. The supporting text to MSGP12 (Paragraph 5.8) however explains that the requirement to comply with NDSS is to be introduced one year following the adoption of Making Spaces for Growing Places (MSGP) on 1 February 2021, in order to allow for a period of transition in accordance with national guidance.
- 5.11 The proposed floor plans indicate that the manager's flat would comply with the NDSS technical requirements in respect of floor space however would fall short of the requisite amount of built-in storage space; notwithstanding this shortfall Officers consider that the proposed development would not result in an inadequate amount of internal living space and overall the development would not be harmful to the residential amenity of future occupiers when considering internal space standards. The proposed scheme does not include the creation of a dedicated area of external space for the occupier of the proposed flat; it is however understood that the rear yard area would be available for the storage of refuse by the occupier of the flat, and in view of the availability of public open space immediately adjacent to the site Officers consider that the proposed development would not be unacceptable in this respect or that this would warrant a reason for refusal.

- 5.12 In terms of housing policy, the principle of the proposed residential development is therefore considered to be acceptable, subject to all other material planning considerations being satisfied.
- 5.13 Health and wellbeing
Core Strategy policy CS14(3) states that: *"the wellbeing and health of communities will be maintained and improved by controlling the location of, and access to, unhealthy eating outlets"*.
- 5.14 Gateshead Council's Hot Food Takeaway Supplementary Planning Document (SPD) was adopted in June 2015. The SPD sets out the Council's priorities and objectives in relation to planning control of hot food takeaways and elaborates upon policies relating to health and wellbeing. The SPD can be afforded full weight in the decision-making process.
- 5.15 Planning permission was previously granted for the erection of single storey extensions to the northern and eastern sides of the premises under applications DC/15/01138/FUL and DC/20/00424/FUL respectively (of which DC/20/00424/FUL is under construction) which were proposed to be used for the purpose of storage associated with the takeaway premises. At the time of considering the applications Officers considered that it was not necessary to limit the use of these extensions for storage only and therefore conditions were not attached in relation to either of these planning approvals.
- 5.16 Supporting correspondence relating to the application sets out that due to Covid-19 regulations the existing ground floor stores are being used to provide larger food preparation areas to accommodate social distancing for staff over a larger area, in addition to reduced supplier delivery frequency and material shortages which have resulted in bulk-buying of supplies, which has therefore resulted in larger storage areas being required.
- 5.17 The submitted proposed floor plans for the application label both the previously approved extensions as storage. However, given that the supporting correspondence states that the existing stores are currently being used for food preparation and in light of the absence of conditions upon either applications DC/15/01138/FUL or DC/20/00424/FUL to prevent them from being used for purposes other than storage Officers are concerned that the addition of the proposed first floor storage areas would allow for the retention of the existing ground floor stores as food preparation areas which could not reasonably be prevented through the imposition of conditions upon a grant of planning permission of this application.
- 5.18 Whilst Officers consider that the proposed creation of storage associated with the takeaway business is, in principle, not unacceptable, in this instance given the above Officers consider that the proposed development would amount to facilitating increased access to an unhealthy eating outlet through an increase in the availability of takeaway food by virtue of allowing an increase in the amount of food preparation that could take place on the premises.

- 5.19 Furthermore, whilst Officers acknowledge the current Covid-19 circumstances the restrictions upon working practices resulting from this are temporary and therefore no weight can be afforded to this in the decision-making process as a reason to grant planning permission for the proposed development.
- 5.20 It is considered that this aspect of the proposed development of use would not support, maintain or improve the health and wellbeing of local communities and would therefore be contrary to the NPPF, policy CS14 of the Local Plan for Gateshead and the Hot Food Takeaway SPD.
- 5.21 VISUAL AMENITY
Policy CS15 of the Local Plan for Gateshead requires development to contribute to good place making. Policy MSGP24 additionally states that the design quality of proposals will be assessed with regards to criteria including: the proposal's compatibility with local character including scale, massing, proportions and form; layout and access; and materials.
- 5.22 The application site currently consists of a single storey flat roof commercial unit positioned to the northern end of a small parade of shops (including a single residential property at the southern end), which is surrounded by predominantly two storey residential dwellings.
- 5.23 The proposed extension would result in the introduction of a new first floor element above part of what is currently a single storey block that would be clearly visible from within the surrounding area. Officers however consider that the proposed extension would be directly reflective of the scale and design of the surrounding two storey properties and would essentially appear as a continuation around the corner of the adjacent property to the west (11 Glynfellis). It is therefore considered that the proposed extension would be acceptable in terms of scale, form and design.
- 5.24 The submitted plans indicate the proposed siting of the extraction equipment to the roof of the building to serve the existing takeaway. This is considered to be acceptable in principle however were planning permission to be granted conditions would be required to be attached to secure the final details of the location and finish of this equipment and those of the materials proposed to be used for the extension, in the interests of visual amenity.
- 5.25 Officers therefore consider that the proposed development would be acceptable in terms of design and visual impact and would be compatible with local character and scale, in accordance with the NPPF and policies CS15 and MSGP24 of the Local Plan for Gateshead.
- 5.26 RESIDENTIAL AMENITY
NPPF Paragraph 130 states that developments should, amongst others, create places that afford a high standard of amenity for existing and future users. Local Plan policies CS14 and MSGP17 additionally require that new development does not have an unacceptable impact upon the amenity of nearby residents.

- 5.27 Existing occupiers
A number of representations have been received which object to the application on the grounds that the proposed development would have a harmful impact upon residential amenity.
- 5.28 The proposed first floor extension would be positioned around 23m from the closest properties to the north/north east along Blackthorne which face towards the site. Having regard for this separation distance Officers consider that the proposed development would not result in unacceptable harm to the living conditions of adjacent residents including through any loss of light or overshadowing, loss of privacy/overlooking, overbearing impact or loss of outlook/visual intrusion.
- 5.29 To the west of the application site is the property 11 Glynfellis which is separated from the site by a pedestrian walkway and contains doors and a first floor window within its gable elevation. Part of the front elevation of the proposed first floor extension would be positioned directly adjacent to the gable of this property, with the closest section containing 2no. windows serving the proposed store areas. Whilst acknowledging the proximity of the sites, having regard to the relationship between the properties Officers consider that the proposed extension would not result in an unacceptable impact upon the amenity of this neighbouring occupier so as to warrant the refusal of planning permission on these grounds. Were planning permission to be granted conditions would however be recommended requiring that the proposed store windows be obscurely glazed, in order to prevent any unacceptable overlooking/loss of privacy or overbearing impact.
- 5.30 It is considered that the proposed extension would not have a detrimental impact upon the amenity of existing occupiers of the units to the south of the application site or other surrounding residential occupiers and would not result in issues of noise and disturbance to neighbouring properties.
- 5.31 Proposed occupiers
The proposed manager's flat would be positioned directly above the store, kitchen and servery/waiting area of the takeaway premises and the proposed plans for the application illustrate that two flues from the takeaway would be routed through the proposed manager's flat, between the lounge and dining area and the kitchen and bedroom (Bed 2), and would discharge at roof level above the flat.
- 5.32 Having regard to the proposed use of the flat as a manager's flat, the occupation of which could be secured by condition upon a grant of planning permission, Officers consider that the future occupant, by virtue of their being the manager of the takeaway, could reasonably expect to be subject to some level of noise and disturbance resulting from the existing ground floor use.
- 5.33 Officers are however concerned that the proposed location of the flat above the takeaway premises and proposed routing of the flues would have the potential to result in an unacceptable level of noise and disturbance to all

future occupiers of the flat, which could potentially also include the family of a future manager, given that the flat contains 2no. bedrooms.

- 5.34 Information could be secured by conditions placed upon a grant of planning permission in respect of the design of the ventilation system and partition walls in order to demonstrate that noise and vibration would be mitigated to allow future occupiers to have undisturbed sleep and enjoyment of amenity areas. Officers however consider that, by virtue of the location of the proposed flat directly above the existing takeaway premises, that this would inevitably lead to a level of noise and disturbance occurring, including from the proposed ventilation system and comings and goings associated with the premises, that could affect all future occupiers of the flat and that it would be unreasonable to condition other measures necessary for the control of noise and vibration as part of a grant of planning permission of this application (such as the limitation of opening hours and operating times of the ventilation system), given that the takeaway premises is already established.
- 5.35 Based on the above assessment Officers consider that the proposed development would afford an unacceptable standard of residential amenity for future occupiers of the proposed flat in terms of noise and disturbance which would therefore be contrary to the NPPF and policies CS14 and MSGP17 of the Local Plan for Gateshead.
- 5.36 HIGHWAY SAFETY AND PARKING
NPPF Paragraph 111 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”*.
- 5.37 The application does not propose any off-street car parking provision to serve the proposed development. Officers acknowledge that a number of objections have been received raising concerns regarding an increase in traffic and inadequate parking however it is considered that parking requirements for the proposed flat could be accommodated on-street within the locality.
- 5.38 The application site includes a yard area and were planning permission to be granted Officers consider that conditions could be attached requiring final details of bin and cycle storage provision for the proposed development which could be facilitated within this part of the site.
- 5.39 The proposed plans indicate that the proposed first floor extension would overhang the adopted highway. Whilst Officers do not consider this to be unacceptable were planning permission to be granted an informative would be attached to advise the application that authorisation from the highway authority and an appropriate highways license would be required in respect of this aspect of the proposed development.
- 5.40 The proposal would not have an unacceptable impact on highway capacity or highway safety and the requirement for parking for the use could be accommodated by existing vehicular parking provision within the area. Having

regard for the objections received it is therefore considered that the proposal would be acceptable in highways terms and complies with the NPPF and policies CS13, MSGP15 and MSGP48 of the Local Plan for Gateshead.

- 5.41 **COMMUNITY INFRASTRUCTURE LEVY (CIL)**
On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is housing related.
- 5.42 The development is located within Charging Zone C, with a levy of £0 per square metre for this type of development. Therefore, this proposal would not be charged.
- 5.43 **OTHER MATTERS**
Concerns raised in letters objection regarding the structure stability of the foundations of the building, the safe siting of the ventilation flue and the location of drains are not planning matters and would be addressed under the Building Regulations regime.
- 5.44 Concerns raised in letters of representation relating to the operation of the existing takeaway premises are acknowledged however cannot be afforded weight in the consideration of this application.
- 5.45 The personal circumstances of the applicant in terms of the ownership of a nearby property and speculation regarding future development of this are not material planning considerations.
- 5.46 It is considered that all other material planning considerations have been addressed within the main body of the report.

6.0 **CONCLUSION**

- 6.1 The Council has been unable to demonstrate a five-year supply of deliverable housing land and the provision of an additional unit of accommodation that would result from the proposed development would contribute to the overall housing land supply. Moderate weight can therefore be afforded in the decision-making process to the contribution that the proposed development would make to boosting the supply of housing and providing housing where a five-year housing land supply cannot be demonstrated.
- 6.2 Whilst accepting that the proposed creation of the manager's flat would be acceptable in principle and would be acceptable in terms of impacts upon visual amenity, highway safety and the residential amenity of neighbouring properties Officers consider that this benefit would not clearly outweigh the harm that would lead from an increased access to an unhealthy eating outlet, which would be detrimental to the health and wellbeing of the local community, and the unacceptable standard of residential amenity that would be afforded to future occupiers of the proposed flat in terms of noise and disturbance.

6.3 Taking all the relevant issues into account including representations made by local residents it is considered that the proposed development is unacceptable and is contrary to the aims and objectives of both national and local planning policies and it is therefore recommended that planning permission be refused.

7.0 Recommendation:

Authorise the Service Director of Development, Transport and Public Protection to deal with at the end of the publicity period after consultation with the Chair and/or Vice-Chair with a view to REFUSE permission for the following reasons:

1
The proposal would represent inappropriate development given that it would lead to increased access to an unhealthy eating outlet and is therefore contrary to the NPPF, policy CS14 of the Local Plan for Gateshead and the Hot Food Takeaway SPD.

2
The proposed development would afford an unacceptable standard of residential amenity for future occupiers of the proposed flat in terms of noise and disturbance and is therefore contrary to the NPPF and policies CS14 and MSGP17 of the Local Plan for Gateshead.



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