

**Location**                      **127 The Broadway London NW7 3TJ**

**Reference:**                      **18/1288/FUL**

Received: 27th February 2018

Accepted: 2nd March 2018

Ward:                              Mill Hill

Expiry 27th April 2018

Applicant:                      MKJ Property Holdings Limited

Proposal:                      Change of use from a former bank (Class A2) to a hot food takeaway  
(Class A5) Installation of extraction and ventilation equipment.  
Alterations to fenestration (amended description).

**Recommendation:** Approve subject to conditions

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1     The premises shall be used for A5 (Hot food Takeaway) and for no other purpose (including any other purpose in Class A5 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

- 2     The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan

Received 2 March 2018

Proposed Ventilation System Document B10027-AEW-PJ002011-XX-SP-0001  
Dated 15.02.2017

Proposed Ventilation System Document B10027-AEW-PJ002011-XX-SP-0002  
Dated 14.02.2017

Purified Air Specification and Defra Report Dated 14 February 2018  
Received 27 February 2018

Plant Noise Assessment Report 18/0120/R1  
Received 13 April 2018

Block Plan Drawing No B10027-AEW-P J002011-XX-DR-0006 Rev C  
Existing Elevations Drawing No B10027-AEW-P J002011-XX-DR-0002 Rev A  
Existing GA Plan Drawing No B10027-AEW-P J002011-XX-DR-0001 Rev A  
Proposed Elevations Drawing No B10027-AEW-P J002011-XX-DR-0004 Rev A  
Proposed GA Plan Drawing No B10027-AEW-P J002011-XX-DR-0003 Rev A  
Driver Delivery Management Plan  
Waste Management Plan  
Land Use Plan Drawing No P17-2390\_03

Received 25 April 2018

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 3 This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 4 The materials to be used in the external surfaces of the building(s) shall match those used in the existing building(s).

Reason: To safeguard the visual amenities of the building and surrounding area in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

- 5 The use hereby permitted shall not be open to members of the public before 11am or after midnight on Thursdays, Fridays and Saturdays or before 11am or after 11pm on Mondays, Tuesdays, Wednesdays, Sundays and Bank and Public Holidays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012) and Policy CS13 of the Local Plan Core Strategy (adopted September 2012).

- 6 No deliveries shall be taken at the site on any Sunday, Bank or Public Holiday or before 9am or after 6p.m. on any other day.

Reason: To prevent the use causing an undue disturbance to occupiers of adjoining residential properties at unsocial hours of the day in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012) and Policy CS13 of the Local Plan Core Strategy (adopted September 2012).

- 7 a) No development other than demolition works shall take place until details of all extraction and ventilation equipment to be installed as part of the development,

including a technical report have been submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed using anti-vibration mounts. The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The development shall be implemented in accordance with details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012) and Policy CS13 of the Local Plan Core Strategy (adopted September 2012).

- 8 a) No development shall take place until details of mitigation measures to show how the development will be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration has been submitted to and approved in writing by the Local Planning Authority.

This sound insulation shall ensure that the levels of noise generated from the A5 use; as measured within habitable rooms of the development shall be no higher than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am.

The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The mitigation measures as approved under this condition shall be implemented in their entirety prior to the commencement of the use or first occupation of the development and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of the residential properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD, and 7.15 of the London Plan 2015.

- 9 The level of noise emitted from the extraction plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2015.

- 10 Before the development commences details of the refuse storage and collection arrangement, including the storage and disposal of all oils, fats, liquids and food wastes arising out of the cooking premises shall be submitted to and agreed by the Local Planning Authority.

**Reason**

In the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 11 Before the permitted development is occupied a full Delivery and Servicing Plan (DSP) shall be submitted to and agreed by the Local Planning Authority. This shall include details of the deliveries and servicing to the property, where vehicles will park in making deliveries and the hours/days which this will take place as well as the management and arrangement of deliveries to customers.

**Reason:** In the interest of highway safety in accordance London Borough of Barnet's Local Plan Policy CS9 of the Core Strategy (Adopted September 2012) and Policy DM17 of Development Management Policies (Adopted September 2012).

- 12 There shall be no deep fat frying on the premises.

**Reason:** To protect the amenities of the area in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012) and Policy CS13 of the Local Plan Core Strategy (adopted September 2012).

**Informative(s):**

- 1 In accordance with paragraphs 186-187, 188-195 and 196-198 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge.

Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.

Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

You will be sent a 'Liability Notice' that provides full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the applicant for this permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice, which is also available from the Planning Portal website.

The CIL becomes payable upon commencement of development. You are required to submit a 'Notice of Commencement' to the Council's CIL Team prior to commencing on site, and failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please email us at: [cil@barnet.gov.uk](mailto:cil@barnet.gov.uk).

Relief or Exemption from CIL:

If social housing or charitable relief applies to your development or your development falls within one of the following categories then this may reduce the final amount you are required to pay; such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

You can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6314/19021101.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf)

2. Residential Annexes or Extensions: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure

Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the [legislation.gov.uk](http://legislation.gov.uk)

Please visit <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> for further details on exemption and relief.

3 Please supply the following information for all extraction units (including air conditioning, refrigeration):

1. The proposed hours of use of the equipment.
2. The sound pressure levels of the ventilation/ extraction system to be installed in decibels dB(A) at a specified distance from the equipment.
3. Details of where the equipment will be placed i.e. within or outside of the building, marked on to a scale map.
4. Details of silencers to be fitted, and other sound insulation measures to reduce any noise impacts on neighbours including their noise reduction in dB(A).
5. Distance away from noise sensitive premises and the nature of these premises e.g.: offices, housing flats or storage

## **Officer's Assessment**

### **1. Site Description**

The application site comprises a two-storey bank (Class A2) at the junction of The Broadway and Goodwyn Avenue. The site was formally occupied by Lloyds but is currently vacant and has been since October 2016. The upper floor is in use as residential accommodation (Class C3).

The site is located within the Mill Hill Town Centre. The site is also located within the designated Primary Shopping Frontage.

The site is not within a Conservation Area nor is the site a Listed Building.

### **2. Site History**

Reference: 18/2022/ADV

Address: 127 The Broadway, London, NW7 3TJ

Decision: Pending Consideration

Decision Date: No Decision Made.

Description: Installation of 2no internally illuminated fascia signs and 1no internally illuminated hanging sign

Reference: H/01163/13

Address: Lloyds Bank, 127 The Broadway, London, NW7 3TJ

Decision: Approved subject to conditions

Decision Date: 16 April 2013

Description: Replacement of 8no. existing signage including 2no. internally illuminated fascia signs; 2no. internally illuminated hanging signs; 1no. internally illuminated ATM surround and 3no. information signs.

Reference: W04616F/06

Address: 127 The Broadway, London, NW7 3TJ

Decision: Approved subject to conditions

Decision Date: 8 January 2007

Description: Internally illuminated fascia signage and projecting box-sign.

Reference: W04616D/02

Address: 127 The Broadway, London, NW7 3TJ

Decision: Refused

Decision Date: 31 March 2003

Description: External disabled access ramp.

Reference: W04616E/02

Address: 127 The Broadway, London, NW7 3TJ

Decision: Approved subject to conditions

Decision Date: 12 December 2002

Description: Installation of internally illuminated signage around existing ATM.

### **3. Proposal**

The proposal is for a change of use from Bank (Class A2) to a hot food takeaway (Class A5). The proposal also includes installation of an extraction and ventilation equipment.

The proposal is for a new pizza operator to occupy the site.

The proposed hours of use are 11 am to midnight on Thursdays, Fridays and Saturdays and 11am to 11pm on Sunday to Wednesday.

#### **4. Public Consultation**

Consultation letters were sent to 126 neighbouring properties.

70 responses have been received, comprising 70 letters of objection. One objection has been made on behalf of the Mill Hill Preservation Society.

The objections received can be summarised as follows:

- No need for more pizza takeaway business or another fast food operation. The Broadway needs more retail and better quality eating establishments.
- Noise and disturbance for neighbours particularly as the business will be open 7 days a week.
- Odours and cooking smells will be detrimental to residential units above and beside the site due to the position of kitchen extract fans discharging below the first floor windows.
- Negative impact on parking and increased risk of accidents with people stopping off and bikes pulling away. This site is adjacent to a busy junction.
- The proposal will change the character of the building which was built in 1925 on a corner of residential street. This is an inappropriate development of this landmark building. Signage will be needed which will detract from this beautiful building. The extraction and ventilation equipment detracts from the appearance of the building.
- This development of low end restaurant chains are attracting crime to the area and increasing rates of obesity
- A change of use from A1 to A3 was refused previously which would have been more supported.
- Increased litter and unsightly industrial bins which will add to environmental issues as there is already a regular hotspot for fly tipping outside the current car park.

The proposal was re-consulted following receipt of additional and amended information including the waste management plan, delivery management plan and plant noise report.

A further 24 objections were received. Many of these were follow up comments to earlier submissions. Additional matters raised are:

- The plant noise report refers to 2 storeys above. The property has only one residential storey above the ground floor. This lack of clarity and attention to detail casts doubt on the accuracy of the report.
- A report was added onto the public site and then taken down.
- Issues with the methods used by the applicant to assess the noise and odour impacts to residential properties.
- Concern over the location of the bin stores next to amenity areas and the use of the rear carpark.

Internal consultations

Environmental Health: The odour control system is suitable for a pizza takeaway.

The plans show that noise attenuator (silencers) will be installed and that the extract system will be on anti-vibration mounts. Consider noise and odour from this proposal will not cause



detriment to amenity to residential neighbours provided conditions are adhered to. Recommended conditions to be included.

Highways: Highways have assessed the proposal and have no objections to the change of use.

The application has been called in by Councillor Farrier due to concerns about the nuisance it may cause to residents.

## **5. Planning Considerations**

### **5.1 Policy Context**

#### National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

#### The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The London Plan is currently under review. Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the adopted London Plan

#### Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS6.
- Relevant Development Management Policies: DM01, DM02, DM11, DM17

Policy DM11 Development principles for Barnet's town centres states the Council will expect a suitable mix of appropriate uses as part of development within the town centres to support their continued vitality and viability.

### Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

### **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Principle of change of use
- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality including the Town centre.
- Whether harm would be caused to the living conditions of neighbouring residents.
- Parking and Highways
- Refuse and Recycling

### **5.3 Assessment of proposals**

- Principle of change of use

The proposal seeks the introduction of a Hot food takeaway (Class A5) to the primary shopping frontage of the Mill Hill Town Centre. Policy CS6: Promoting Barnet's Town Centres outlines the significance of town centres as a crucial indicator of the overall economic health and suburban success of the borough.

DM11: Development principles for Barnet's town centres; states that the Council will expect a suitable mix of appropriate uses within the town centres. The policy explicitly states that proposals which reduce the combined proportion of Class A1 (Retail) use at ground floor level in the primary frontage below 75% will not be permitted. However the current use of the site is a bank (Class A2) and therefore the proposal would not result in a reduction of A1 uses within the Primary Shopping frontage.

Policy DM11 also confirms that proposals should not create an over-concentration of similar uses which detracts from the retail function of the town centre. The supporting text to Policy DM11 does not set out any specific guidance on when an unacceptable over-concentration may occur however refers to where a presence of three or more non A1 uses would occur that this would be resisted. The applicant has stated that the neighbouring site is a A3 use and the neighbouring property to that is an A1 use. Therefore, there are not 3 adjacent non A1 uses in a row. Furthermore, the current lawful use of the property is A2 and therefore is already a non-retail use and this proposal does not change that. The addition of a hot food takeaway is not considered to create an over concentration of Use Class A5. It is noted that public comments were received that there is no demand for an additional A5 use or takeaway. However, Council cannot control the market in respect of cuisine but can influence the proportions of uses within a town centre to preserve and protect the dominant function. The property is currently vacant and its proposed use as an A5 would activate a dormant building, support employment and contribute to the vibrancy of the Mill Hill town centre. The planning system is confined to managing uses within the constraints of the use class system and cannot control one type of class A5 over another.

The supporting text for the policy states that 'appropriate town centre uses expected to locate within the town centre boundary include retail, leisure, entertainment facilities, more intensive sport and recreation uses, offices and arts, culture and tourism development.' Use class A5 is identified as a typical high street use (as is the current A2 use of the property). The text comments that the above are uses which will be more acceptable in a town centre location because of the transport impact that they create from their use and the contribution they make to the success of the town centres.

The introduction of a hot food takeaway at the site is considered to provide a positive contribution in providing a greater diversity of offerings for local residents which will in turn contribute to the vitality and vibrancy of the town centre. The policy refers to evening economy uses and that these will be expected to not adversely affect the amenity of local residents and be in keeping with the scale and character of the surrounding area. Planning conditions can be appropriate to manage the hours of operation, noise and fumes from machinery and storage and disposal of refuse to mitigate any potential impacts of these uses. The proposed A5 use considered an appropriate use within the town centre and complies with the policy DM11.

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality including the Town Centre

With respect to the visual appearance, the proposal involves some alteration to the external fenestration of the building and the introduction of ventilation and extract equipment.

At the front of the property, the only external change is for the customer entrance door. The customer entrance will be located in the same opening, facing The Broadway. The door will be a new frameless glazed entrance door with full height PPC handles on either side. A number of existing windows will be made opaque glazing to provide for toilet areas and three small windows in the rear elevation will be removed and openings infilled to match the existing elevation.

An extract duct will run from the oven in the cooking and preparation area towards the rear (western) elevation of the building. It will terminate via a louvred grille at the rear elevation which will be approximately 650mm by 650mm in size. The fresh air duct will also terminate via a louvered grille at the rear of the building, measuring 550mm by 550mm. There will be 3 floor mounted compressors. The grilles are limited in size and positioned in the rear wall to avoid being prominent.

Owing to the sites corner location, the rear of the site is visible and the plant equipment and refuse storage in the rear yard will be visible. However this site is in a Town Centre location and the presence of bins and plant machinery is not unexpected. Other neighbouring sites would also contain similar equipment.

A separate application is pending for the signage proposed at the site. All matters relating to the visual appearance of the signage will be addressed in that application.

The external changes are not considered to harm the visual appearance of the building. The building is an attractive building but is not listed.

- Whether harm would be caused to the living conditions of neighbouring residents.

The proposal was reviewed by Environmental Health officers. Officers assessed the reports submitted with the application and have advised that the odour control system is suitable for

a pizza takeaway. However officers raised concerns that should any deep fat frying take place then it will not be sufficient. The applicant has confirmed that no deep fat frying will take place and a condition will be recommended to ensure compliance with this.

An extract duct will run from the oven in the 'bake and serve' to expel from the rear wall in the yard area. It will terminate via a louvred grille measuring 650mm by 650mm. The plans show that noise attenuator (silencers) will be installed and that the extract system will be on anti-vibration mounts. The system is fitted with a carbon filtration system to ensure that the air which is expelled is as clean as possible. Environmental Health officers consider that noise and odour from this proposal will not cause detriment to amenity to residential neighbours provided the system is installed correctly and regularly maintained, and that it does not in the future become a different type of hot food takeaway (eg Chinese, Indian, Chicken, fish and chips or anything requiring deep-fat frying). This can be conditioned through appropriate restrictive conditions.

The applicant has provided a plant noise assessment which demonstrates that provided acoustic attenuation measures are included, the noise emissions from the plant equipment will be kept to an acceptable level and will cause no adverse impact on the nearest noise sensitive properties. In response to the concerns of the public, the applicant has also proposed a delivery management plan which sets out that only electric mopeds will be used within the rear yard. These measures are supported.

Environmental Health reviewed the information provided. Officers advised that the noise report uses the lowest measured background noise levels to set noise criteria for the plant to be installed (fans and condenser units). Mitigation in the form of silencers and enclosures will be required to reduce noise levels to the Council's standard requirements. Examples of this mitigation have been provided. Officers would recommend imposing a number of conditions, so that the actual noise mitigation measures that will be installed are provided. It is also important to impose a sound insulation condition as this is to address noise from within the premises affecting the residents living directly above.

In summary, Environmental Health have recommended a number of conditions regarding the extraction and ventilation equipment and noise levels. These conditions are expected to be sufficient to ensure the proposed development does not adversely affect neighbouring amenities.

The delivery management plan restricts vehicles using the rear yard to electric mopeds to prevent idling of engines. Noise and smell from engines can be disturbing so this is supported.

The proposed opening hours within a town centre location are appropriate in comparison to other businesses in the area and will not cause any unacceptable late night noise disturbance.

#### -Highways

The proposal was assessed by the Highways department. Highways did not raise any objection with the proposal.

A number of public comments were received concerning the impact of the development on highways and parking in the area. It is acknowledged the site is adjacent to a busy roundabout.

The applicants planning statement makes an assessment that any expected parking demand would be met by the existing on street parking surrounding the site. There is a yard area to the rear of the site which can be accessed directly off Goodwyn Avenue. The applicant proposes that this area will be utilised as parking for delivery drivers of the takeaway. However, as set out within the delivery driver management plan, the proposal is that this area will only be used by electric mopeds to reduce any potential for noise and disturbance from the delivery vehicles.

The applicant intends that the majority of delivery drivers will be able to park in the off-street parking area to the rear of the site. The remainder of the drivers would make use of the surrounding on-street parking opportunities. There is restricted on-street parking along The Broadway, allowing for parking up to 30 minutes between 9am to 5.30pm Monday to Saturday. There are also restricted on-street spaces to the rear of the site, on Goodwyn Avenue. The hot food takeaway would likely be busiest outside of the time when the on-street spaces are restricted, i.e. during the early evening.

In terms of customer parking, the site is in a highly sustainable location and a number of customers would either walk to the site from the surrounding residential areas or collect their orders as part of linked trips to the town centre. The applicants proposal is that the majority of customers will use the delivery service. For customers driving to the store to collect orders, they will use the surrounding on-street spaces.

Appropriate weight should also be given to the lawful use of the site and the 'fall-back' position. The application site is lawfully a Class A2 bank and could be used as a Class A1 shop without the need for planning permission (as well as a bank). A Class A1 shop would generate a similar amount of vehicle movements and parking demand as the proposed hot food takeaway use and this needs to be taken into consideration in assessing the merits of this proposal.

The proposed use is not considered to have a harmful impact on traffic and pedestrian safety in the area.

Notwithstanding the details of the delivery management plan provided, a condition is recommended to require a full delivery and servicing plan to be submitted for approval.

#### **- Refuse and Recycling**

The scheme drawings show the location of 2 x 1100 litre Euro-bins to be stored in the rear yard.

The rear area is considered to be of sufficient size and easily accessible from the public highway by those charged with collecting waste from the premises. Nevertheless, provision for the storage of all waste products associated with the separate uses including the by products of the cooking process will be secured through a planning condition.

A condition requiring a refuse and waste collection strategy is still recommended. The current waste management document does not address the specific measures in place to deal with liquids and oils and other by products of the cooking processes which need to be handled specifically. It also does not detail how much waste is expected to be generated or how recycling, food waste and general waste will be contained and separated.

### **5.4 Response to Public Consultation**

The concerns raised in the comments have been addressed in the assessment above.

Concerns around crime and behaviour are not planning matters.

Refuse collection facilities have been identified and a waste management plan submitted which the applicant will need to comply with.

The LPA can only assess the appropriateness of the change of use. The LPA cannot restrict what particular businesses within a use class should be permitted. Comments were received that there are a number of pizza outlets already in the Broadway but the Council cannot control the market nor what food outlets should operate. Many of the objections appeared supportive of an eating establishment at the site; but not a pizza takeaway.

A report was prepared and appeared on the public site ahead of the intended committee. The item was deferred until a later committee and the report removed. The proposal was re-consulted as additional information was received, and additional comments were considered. The report was revised to take into account the further information and public comments.

The ownership of the rear amenity space was clarified and the applicant has stated they have ownership of this land. A certificate B was required for the occupiers of the first floor flat. If the residential flat had previously used this rear area it is a civil/property matter to resolve rights over this space.

## **6. Equality and Diversity Issues**

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

## **7. Conclusion**

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for approval.

