

Delegated Report
Planning Application

Planning Application No: 20220299

Location: 143 - 145 Wellington Street Gravesend Kent DA12 1JF

Description: Retention of rebuilt structurally damaged front and side walls of building and first floor extension, installation of two new shopfronts and change of use of no. 144 Wellington Street to sui generis hot food takeaway.

Applicant: Mr Raj Ram, Kaler Group

Site Visit Date: 17/11/2022 & 22/09/2023

Submitted Documents/Plans

- Application form;
- Drawing no. 001 Rev. A – Existing and Proposed Elevation;
- Drawing no. 001b Rev. A – Existing and Proposed Side Elevation;
- Drawing no. 002 Rev. A – Existing and Proposed Ground Floor Floorplan including site location plan;
- Drawing no. 003 Rev. A – Existing and Proposed First Floor Floorplan including site location plan;
- Drawing no. 004 Rev. A – Existing and Proposed Roof Plan; and
- Drawing no. 005 Rev. A – Existing and Proposed Block Plan.

Relevant Planning History

Reference	Description	Decision	Decision Date
20110285	Continued use of the ground floor as a D1 gymnasium (143), basement A1 retail use (144), A1 retail unit on ground and first floor (145), ground and first floor A2 professional offices (146) and ground and basement level A1 retail use (147) on the Wellington Road frontage; with mixed A1/B1 retail/light industrial use on the ground floor with A2 professional offices at first floor at 12 Peacock Street with their associated fire escape routes; and including the retention of the roof alterations at 146 Wellington Street.	Permitted	16.11.2012
20120786	**REVISED SITE ADDRESS** Change of use from gymnasium (D2) to A3 restaurant with ancillary A5 hot food takeaway.	Permitted	16.08.2013

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS05 – Gravesend Town Centre Opportunity Area
- CS08 – Retail, Leisure and the Hierarchy of Centres

- CS11 – Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- S7 – Hot Food Shops and Restaurants and other A3 uses
- P3 – Vehicle Parking Standards
- TC9 - Shopfronts

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision-making
- Section 6 - Building a strong, competitive economy
- Section 7 – Ensuring the vitality of town centres
- Section 8 – Promoting healthy and safe communities
- Section 9 – Promoting sustainable transport
- Section 12 – Achieving Well-designed places
- Section 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020;
- SPG 4 - KCC Parking Standards (2006).

Consultations, Publicity and Representations

Consultees

KCC Environmental Protection

Having reviewed the submitted information, very little detail has been provided regarding the proposed takeaway at 144. Although it is described as a pizza takeaway, no kitchen layout plans, details regarding any kitchen extract ventilation or opening hours have been included. Although Environmental Protection has no objection to a takeaway in this location, due to the fact that it is on the end of a predominately residential street, these matters need to be addressed.

With regards to the kitchen extract ventilation, this will need to be designed and installed in accordance with the EMAQ/Defra Control of Odour and Noise form Commercial Kitchen Exhaust Systems (2018 update).

With regards to hours of use, it will be important to ensure that the hours are not extended to such an extent that disturbance is caused to local residents from customers or food collection/delivery vehicles (Uber Eats etc).

In respect of this and other matters, it is recommended that the following be considered and conditioned as necessary:

RESTAURANT/TAKEAWAY ODOUR

Prior to any works commencing on site, the applicant shall:

- 1) Submit a scheme in writing to the Local Planning Authority for approval in relation to cooking odour/fume control. The extraction system must be designed and installed in accordance with the “EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)”.

Full details of proposed extraction system to deal with grease and odour control should include:

- a) Plans and details of all duct work (internal and external) and equipment.
 - b) Plans showing the location/position of the external flue/discharge stack, including its position in relation to neighbouring properties and window openings.
 - c) Details of all grease filtration and odour control including the manufacturer’s specification/data sheets. This includes the canopy.
 - d) Details, including manufacturer’s specification/data sheets of the fan.
 - e) Details of proposed routine cleaning and maintenance of the system, and the service requirements of the installed odour control system, including details of system access panels and confirmation that they will be grease tight.
 - f) Details of the type of food to be cooked, the cooking time per day; and the type of cooking appliances to be used. Where the end user is not yet known, the extraction system shall be designed for a ‘very high’ grease content, a ‘very high’ level of odour potential and a ‘very high’ smoke content (EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)).
- 2) Install and commission the extract system using a competent ventilation engineer in accordance with approved details. Provide a commissioning report to the LPA to verify the installation, ensuring minimum discharge rates are included.

The extraction and odour/fume control equipment shall be maintained and operated in compliance with the approved scheme.

After installation of the approved plant, no new plant or ducting system shall be used without the written consent of the Local Planning Authority.

Reason: In the interests of protecting the amenity of adjoining/nearby residential properties and safeguarding the amenities of the surrounding area

RESTAURANT/TAKEAWAY NOISE

Prior to any works commencing on site, the applicant shall:

- 1) Submit a scheme in writing, including a noise survey, to the Local Planning Authority for approval in relation to noise control. The extraction system must be designed and installed in accordance with the “EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)”.

The noise survey should assess the worst-case scenario noise impact from the proposed extract and ventilation system, on nearby residential properties and must:

- a) Assess the whole system and any tonal elements associated it; a 1/3 octave band analysis may be necessary.
 - b) Assess structural transmission with the use of anti-vibration mounts where necessary, linings to ductwork to prevent noise transmission, any inline silencers and provide details of where they have been installed.
 - c) Use the results of the noise survey to ensure that the noise generated at the boundary of any noise sensitive property meets the requirements laid down in BS4142:2014 "Method for Rating and Assessing Industrial and Commercial Sound".
- 2) Install and commission the extract system using a competent ventilation engineer in accordance with approved details. Provide a commissioning report to the Local Planning Authority to verify the installation, including post completion noise levels.

The equipment shall be maintained and operated in a condition such that the requirements of BS4142:2014 continue to be met.

After installation of the approved plant, no new plant or ducting system shall be used without the written consent of the Local Planning Authority.

Reason: In the interests of protecting the amenity of adjoining/nearby residential properties and safeguarding the amenities of the surrounding area

Hours of use/Opening hours: It is advised that appropriate opening hours are placed on any permission in order to protect the residential amenity. Environmental Protection would consider the following to be appropriate in this area:

Monday to Saturday: Noon to 11:00pm
Sundays and Bank Holiday: No opening

Smoke Control Informative: The proposed development is situated in a smoke control area. As such, only authorised smokeless fuels as listed in the Smoke Control Areas (Authorised Fuels) Regulations 1991 shall be burnt or fireplaces/appliances exempted by Smoke Control (Exempted Fireplaces) Orders shall be utilised. Exempt appliances are appliances (ovens including pizza and tandoori ovens, wood burners and stoves) which have been exempted by Statutory Instruments (Orders) under the Clean Air Act 1993. These have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting smoke. They must be fitted and used according to manufacturer's instructions, and they can only be used for the fuel for which they are designed. When purchasing fuels and fireplaces the applicant should clarify with the vendor their suitability with respect to use in Smoke Control Areas. For further information, including confirmation that an appliance and/or fuel is suitable for use in a smoke control area, the applicant should contact the Council's Regulatory Services air.quality@gravesham.gov.uk

Lighting: Artificial lighting can cause a statutory nuisance under the Environmental Protection Act 1990. It is important that the applicants are not permitted to install external lighting (including any illuminated advertising signage) that illuminate anything other than the ground within the curtilage of the new properties in order to assist in preventing a nuisance from occurring (which would be most likely if the bedrooms on neighbouring properties are illuminated). Illuminated advertising signage should comply with ILP Lighting Guide 05: The Brightness of Illuminated Advertisements.

Code of Practice on Construction and Demolition: Please apply to prevent nuisance from noise and dust during demolition and construction occurring to nearby residential and commercial premises.
KCC Heritage

I have no comments to make on archaeological matters.

Network Rail

Network Rail sets out what the developer must ensure during construction and after completion.

Neighbouring properties

13 surrounding properties were consulted – overall consultation expiry date was 25.10.2022 – 1 response received, the comments of which can be summarised as follows:

- Application should be refused;
- Has admired the old Wellington Brewery building, big part of Gravesend's history;
- Was appalled when they saw that what had been a one story building was having an entirely new floor put on it;
- Shocked at standard of workmanship;
- Health and Safety Issues - Fire Exits have been blocked, gas mains are situated in front of doors, the takeaway restaurant that has been built next door has hot extractor's blocking escape corridors, guttering has been left to flood area where the general public go causing massive health and safety issues;
- Entire building has been knocked around to accommodate as many businesses as possible for the landlord to benefit from and for as cheap a cost as possible;
- Perplexed what the "damaged front and side walls" are that needed rebuilding according to the planning application as there was no damage to the front or the side walls;
- The building looks substantially worse than it ever did;
- How dare the applicant say that the works repaired damage when he himself is the cause of it;
- Questions how they can build a whole new floor on the building without any structural engineering drawings and calculations;
- Questions how on earth anyone can say that the building looks good, it does not look good and is an utter eyesore. The old Wellington Brewery building was built in a lovely red brick and the hideous "improvements" and new story on the building have been done in a cheap yellow brick which doesn't match in at all with what was there before and is truly appalling;
- The landlord should be forced to take the building back to its original state;
- Too many historic buildings have been lost and destroyed in this town and if something isn't done this appalling sort of thing will continue.

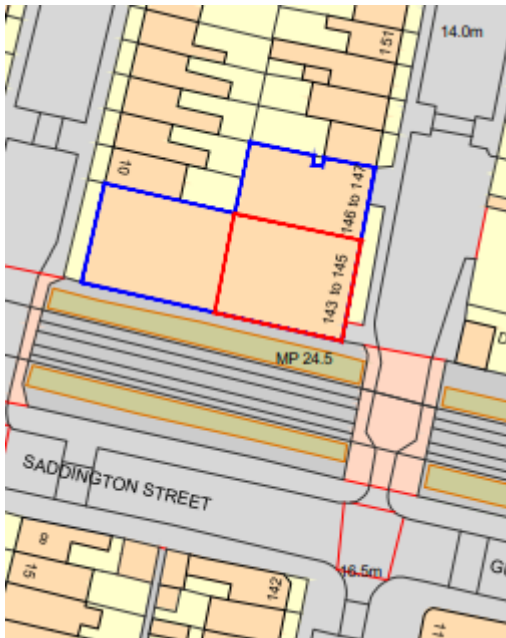
Officer's Analysis

Procedural matters

Due to the extent of difference between what existed previously on site and what exists now the agent was asked in the course of the application to confirm what parts of the building were demolished. The agent advised that due to damage caused by undergrowth from the railway embankment the applicant had no choice but to demolish and rebuild and the application has therefore been assessed on this basis.

The application site consists of 143-145 Wellington Street which is situated on the western side of Wellington Street to the north of the railway line.

It is shown outlined in red below:



The site is located in the Gravesend Town Centre Opportunity Area.

The proposal is for retention of 'rebuilt structurally damaged front and side walls of building and first floor extension, installation of two new shopfronts and change of use of no. 144 Wellington Street to sui generis hot food takeaway'. The development has taken place already without the benefit of planning permission and is therefore unauthorised development. This applications assesses the proposal (which is for retention of the development) as follows:

Principle/Loss of retail and acceptability of hot food takeaway use

In regards to the principle of development, Policy CS02 (LPCS) prioritises development in the urban area as a sustainable location for development.

Given the above the matter of extending or altering the building is therefore acceptable in principle subject to being of good design and meeting the requirements of Policy CS19 (LPCS) and section 12 of the NPPF (2023) and this is discussed below in the Design, Character and Appearance section.

The proposal includes the change of use of a previous retail unit to a hot food takeaway (this has already taken place without planning permission). The application site is not situated in a Primary or Secondary Shopping Frontage in the LPCS Policies Map (2014). The site is located in the Gravesend Town Centre Opportunity Area to which Policy CS05 (LPCS) states it will be the principal focus for town centre related economic and social activity in the Borough. It states this will be achieved by amongst other things, consolidating the existing retail area and encouraging a mix of employment and residential uses. Although the previous retail use (which is the lawful use as the takeaway does not have planning permission) would be lost, it will still be a commercial unit and given this site is on the extreme edge of the opportunity area and that it is not in a Primary or Secondary Shopping Frontage, it is considered that the loss of retail on this occasion would not so objectionable to warrant a refusal as the loss of this retail unit alone would not impact on the retail function of Gravesend town centre.

In terms of the acceptability of the actual hot food takeaway use the proposal also includes the change of

use of no. 144 Wellington Street from a shop to a hot food takeaway (sui generis). Saved Policy S7 (LPFR) states a number of criteria will be assessed when considering changes of use of retail to hot food shops as follows:

(i) They should not cluster with other similar uses to create a dead frontage

Between nos. 143 – 147 Wellington Street there are several commercial units, the units in this row are as follows:

No. 143 (Application Site) – vacant

No. 144 (Application Site) – ‘Fireaway’ hot food takeaway (Sui Generis)

No. 145 Application Site) – ‘Bustles & Breaches’ fancy dress shop (Class E(a))

146 – Training & meeting rooms – (Class F1(a))

147 – Bakery (Class E(a))

As can be seen there are no other hot food takeaways in the commercial units between nos. 143-147 Wellington Street therefore, there would be no clustering of other similar uses.

(ii) They should not have a detrimental effect on the amenity of any nearby residential accommodation

This is discussed in full below. However, GBC Environmental Protection have no objection to a takeaway in this location but advise that as very little detail has been provided in regard to the takeaway use and that it is situated on the end of a predominantly residential street then matters of kitchen layout, kitchen extract ventilation and openings would need to be addressed. To this end they recommend conditions on a ventilation extraction system, a noise survey for noise from the extraction system and opening hours. Subject to such conditions is therefore considered the amenity of neighbouring properties would be protected.

(iii) There should be adequate parking space available which will not interfere with the free flow of traffic along the highway

This is discussed in full below. There is (paid for) on-street parking available in Wellington Street just down from the application site (it begins outside no. 147 and extends all the way down this part of Wellington Street on both sides). It is therefore considered there would be ample on-street parking for customers of the takeaway such that there would be no interference with the free flow of traffic.

(iv) It should be possible for ventilation trunking to be discreetly located on the building

No details have been provided of the ventilation trunking but as GBC Environmental Protection advise, this can be conditioned. This could then include the appearance, colour and finish etc. to ensure there would be no harm caused in visual amenity terms and to the surrounding area.

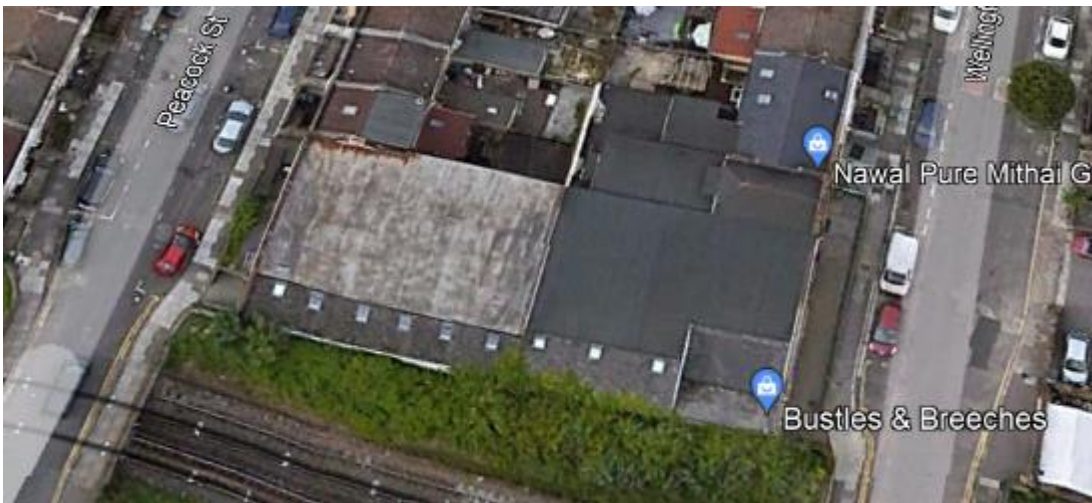
Therefore, it is considered that the loss of retail and the proposed takeaway use is acceptable in terms of principle as subject to conditions it would meet the requirements of saved Policy S7 (LPFR).

Overall therefore, the development is acceptable in terms of principle but it also needs to be seen whether it is acceptable in regards to all of the other considerations and these will be discussed below.

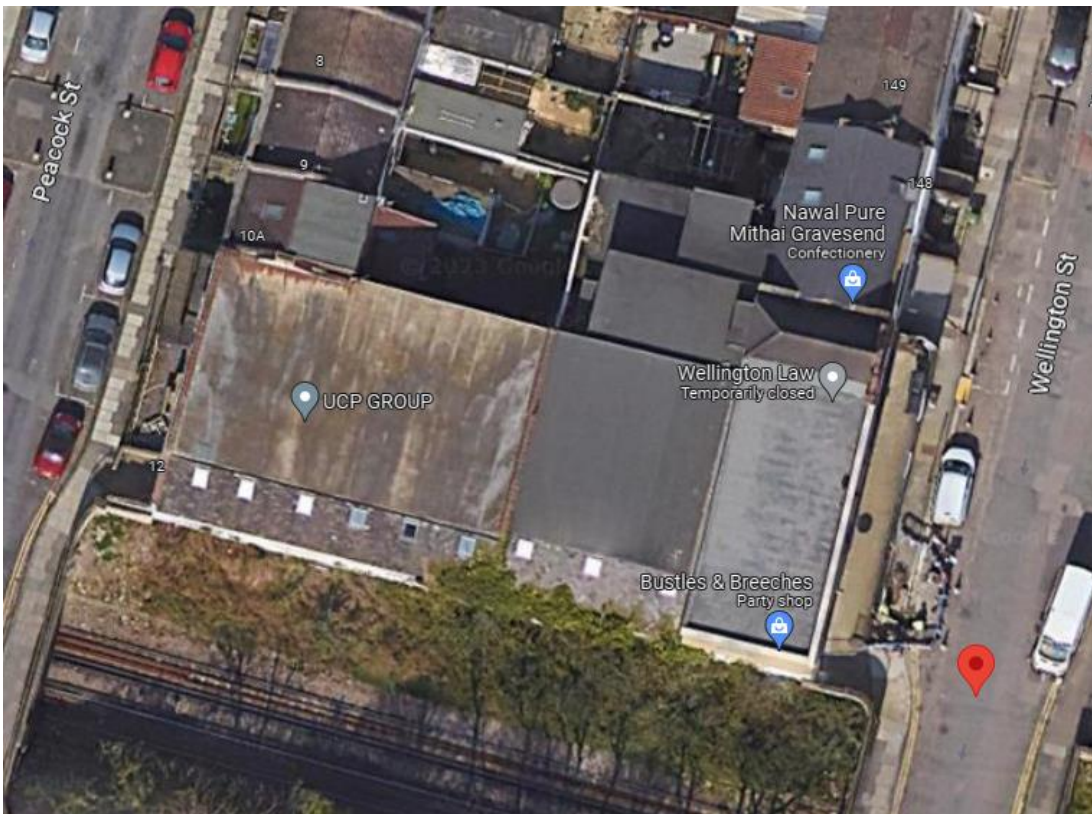
Design, Character & Appearance

The application site consists of part of the former Wellington Brewery which has been broken up into different addresses and uses since the brewery closed. On Wellington Street the brewery building consisted of what is now nos. 143-147 and extended through to Peacock Street and what is now no. 12 Peacock Street.

The application site before the unauthorised works is shown in the below aerial image:



The application site after the unauthorised works is shown in the below aerial image:



Prior to the unauthorised development being carried out at nos. 143 -145 (the application site) it consisted of a lower portion of the former brewery building. It had a flat roof with part mono pitch which was hidden behind a decorative parapet in red brick with dentils and rendered section painted white. The ground floor had been heavily altered with the insertion of modern shop fronts and brickwork. It was a simple subservient component to the main taller and decorative part of the former Wellington Brewery building at what is now no. 146 (which is outside of the application site but is owned by the applicant). Below is the site as viewed from Wellington Street before the unauthorised development had been carried out:



Following the unauthorised development taking place, nos. 143-145 now appears as follows:



As clearly demonstrated in the above 'before' and 'after' views, the development as carried out is completely disrespectful to the character of the building it has replaced and the rest of the former brewery building which fronts Wellington Street at no. 146 and the part behind which fronts no. 12 Peacock Street

and is also visible from Wellington Street.

Although the previous building was altered at ground floor level though the insertion of modern shopfronts and piers it was a subservient component to the main decorative element of the Wellington Brewery building and had architectural detailing which tied in with it i.e. the red brick dentils. This has now all gone and has been replaced with a yellow brick, flat roofed building which pays no respect to the character or appearance of the building it has replaced or the remaining decorative element of the former brewery building at no. 146 Wellington Street.

No. 146 has a decorative Edwardian façade on the upper levels with much attractive architectural detailing including a decorative gable with finial, dentils, 'Wellington Brewery' name plaque, balustrade and scroll detail, blind recesses with decorative feature, pilasters and keystone above the windows. Due to its age and architectural interest it is considered it could be classed as a non-designated heritage asset. The building as built is not respectful to the character or appearance of this Edwardian building at all but actually causes harm to it by virtue of the extremely poorly designed building which is now attached to it.

The building as built has a completely incongruous flat roof design which is not acceptable in design terms. The previous building fronting Wellington Street had a part flat roof but this was hidden behind a parapet; the new building with a full flat roof is not acceptable and is extremely harmful to the streetscene. It is not a sympathetic replacement of what was there previously and the juxtaposition of the new flat roof of the building with the part flat/part pitched roof on the remaining element of the former brewery building which fronts no. 12 Peacock Street, is completely unacceptable and appears a particularly incongruous and jarring feature which is highly visible from the south in Wellington Street and from the west in Peacock Street. It is incongruous to the simple line of the part mono pitched roof on the rest of this building. The following images show the incongruous jarring nature of the new flat roof in comparison to the mono pitch roof section of the rest of the building:



As viewed from the south-east



As viewed from the south-west from Peacock Street

The agent was asked to amend the plans to propose an acceptable design (suggestions were made by the Local Planning Authority) but the agent advised they could not make the changes due to issues regarding encroachment and access.

In summary the unauthorised new building is not respectful to the previous building it has replaced and is an incongruous built form harmful to the character and appearance of the remaining parts of this former Wellington Brewery building, which is considered a non-designated heritage asset, and to the character and appearance of the streetscene. As such this proposal is contrary to Policy CS19 (LPCS) and section 12 of the NPPF (2023).

Neighbouring Amenity

In respect of the built development, due to the distance of any neighbouring dwellings from the application building (the railway is to the south, a commercial building to the north and a pub to the east) there would be no impact on any neighbouring properties in respect of overshadowing, loss of light, loss of outlook or overlooking. As such in respect of neighbouring amenity the proposal is considered compliant with Policy CS19 (LPCS).

In respect of the takeaway use at no. 144 (which is already operating without permission) this has the potential to impact on neighbouring properties in Wellington Street due to cooking odours and noise and disturbance from a ventilation extraction system. GBC Environmental Protection advise they do not object to the proposed takeaway use but that very little detail has been submitted regarding the proposed takeaway use as there are no kitchen layout plans, details regarding any kitchen extract ventilation or opening hours. In order to address these matters they advise conditions could be attached in order to request details of the extraction system and a noise survey which should address the noise impact from the extraction and ventilation system on the nearby residential properties. It is also considered it would be prudent to include in the noise survey any potential noise and disturbance from general comings and goings of customers etc.

Subject to conditions therefore, it is considered the amenity of neighbouring properties would be protected.

Parking and Highway Safety

In respect of the takeaway use, SPG4 (2006) states that there should be 1 space per 2 staff and for customers there should be 1 space per 8 sq. m. In this case the site has no off-street parking and there is considerable on-street parking in the vicinity. From outside no. 147 Wellington Street there is on-street parking (paid for) which extends all the way down from this lower part of Wellington Street and on the other side. There is also on-street parking on the upper part of Wellington Street beyond Saddington Street on both sides. As such it is considered there is sufficient on-street parking in the area that there would be no detrimental impact on the free flow of traffic from the takeaway use. In this respect the proposal is compliant with Policy CS11 (LPCS) and saved Policy P3 (LPFR).

Any Other Material Planning Considerations

None.

Conclusion & Recommendation

The proposal (for retention of) subject to conditions is acceptable in respect of principle in terms of the loss of retail and proposed takeaway use, neighbouring amenity, parking and highway safety. **However, it is wholly unacceptable in respect of design, character and appearance and in this regard is contrary to Policies CS19 and CS20 (LPCS) and sections 12 and 16 of the NPPF (2023) and refusal is recommended.**

Recommendation: Refusal

(For detailed reasons for refusal and informatives, see draft Decision)

Case Officer:	Ms Rebecca Harrison	Team Leader:	Richard Hat
Signed:	<i>Rebecca Harrison</i>	Signed:	<i>R Hart</i>
Dated:	22 nd September 2023	Dated:	27 th September 2023