

Planning appeal for

95 HIGH STREET, BIDDULPH

**CHANGE OF USE OF FORMER PIE SHOP TO KEBAB/PIZZA
TAKEAWAY.**

Rebuttal

Date: 5th April 2023

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Comments of the EHO and also planning conditions

The further comments of the council's EHO are noted along with the suggested conditions. Albeit the number and scope of conditions 1 and 2 (EHO) are a little onerous they are matters which the appellant is happy to ensure compliance with. Condition 4 and 5 are reasonable and acceptable. Condition 7 is imprecise in part and not enforceable. The following condition would be better if considered necessary:

- *Lighting. No external lighting to the rear of the premises shall be installed without the prior written approval of the LPA.*

With regard to (EHO) condition 3 and 6. In respect of condition 6 the council's complete list of conditions (planning officer) deals with opening/closing hours at suggested condition 5. This is reasonable, as set out on the application form in respect of closing and are acceptable to the appellant.

Condition 3 (EHO) which deals with odour is acceptable in principle but is considered imprecise. The appellant has submitted an odour control scheme to which the council EHO says on 29th March 2023 the following:

'Cooking smells: The advice set out in the 'Ideal Catering Solutions Extraction Specification and accompanying plans appear sufficient to address our standard condition as previously recommended. If it is completely installed, cleaned and maintained then cooking smells should not cause significant adverse impacts to neighbouring properties. This submitted advice should be a condition of development. Any final install of flues should be compliant with building regulations.'

This being the case the odour condition needs to only require the installation of the control system proposed by the appellant and accepted by the council. Any theoretical failure of that in the future could be addressed by the council as a separate matter. A suggested odour condition could read as follows:

- The use hereby approved shall not commence until the odour extraction system submitted by the appellant has been installed in accordance with the submitted details. Thereafter the approved odour control system shall be operated at all times when hot food is being prepared on this property.

Aside from where suggested conditions of the EHO and planning officer are duplicated the appellant has no objection or comment in respect of other conditions.

Finally. The appellant would like to avoid any pre-commencement form of conditions due to inordinate delays of many council's in processing resultant applications.

Third party comments

Parking

The site is within part of the town well served by nearby public car parking. Customers will use these parking spaces or will park in other places nearby where they are legally entitled so to do. The council have no such concerns about parking issues.

Litter

There will be litter bins on the premises should they be necessary but in reality most customers will take their (not inexpensive food) back to their homes to eat in warmth and comfort. It is considered that littering from the proposal is likely to be less than it would have been when a operating as shop selling hot pies which are much more likely to be consumed on street with possible littering as a result.

Amount of HFTA's

This total of HFTA's and food outlets along this long High Street does not form part of the council case. The town centre is; by standards of similar towns, trading well and is busy a sure sign of a healthy and vibrant mixture of town centre uses. There is no indication that an excess of HFTA's is harming the essential town centre functions or that the amount is causing any other planning harm.