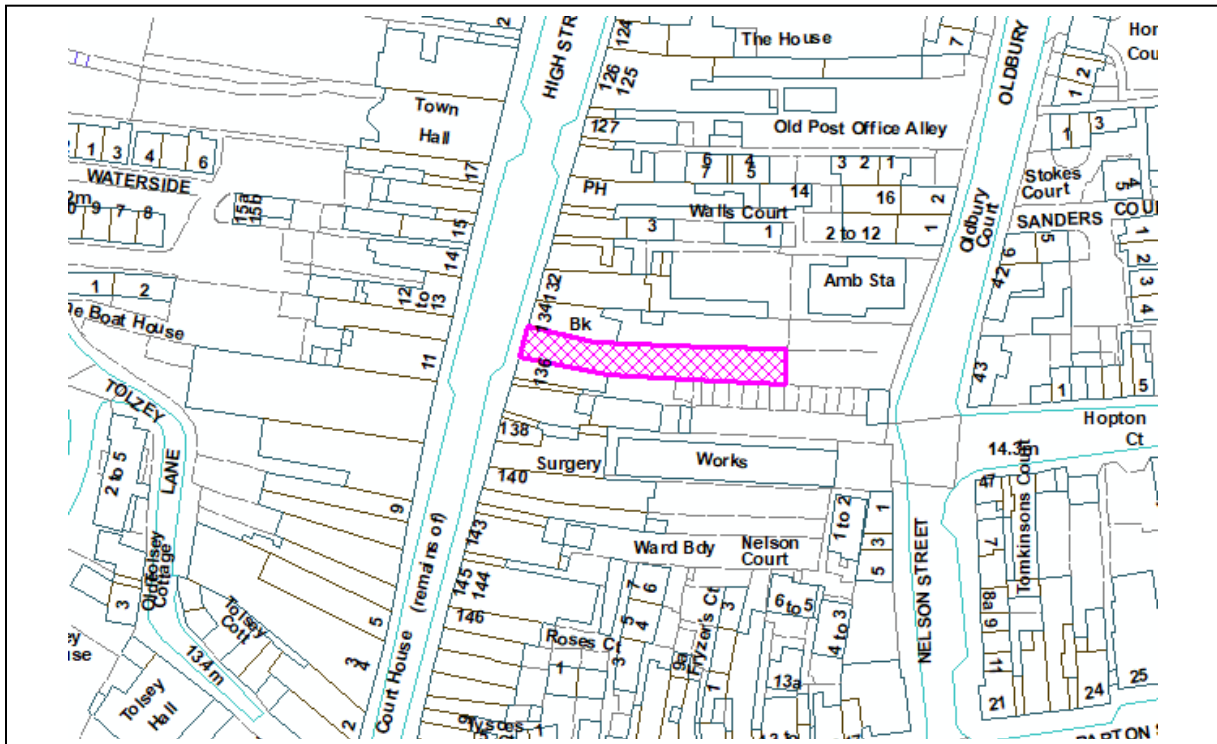


Planning Committee

Date	20 December 2022
Case Officer	Chloe Buckingham
Application No.	22/00811/FUL
Site Location	Barclays Bank, 133 - 134 High Street, Tewkesbury
Proposal	Change of use from bank (use class Ec(i)) to takeaway (sui generis) on the ground floor; two 1-bed, one person flats on the first floor and one 1-bed, two person flats on the second floor (use class C3).
Ward	Tewkesbury North and Twyning
Parish	Tewkesbury
Appendices	Site location plan 21171-21A Existing site plan 21171-16 Existing ground floor plan 21171-02A Existing floor plans 21171-22A Existing elevations 21171-03 Proposed site plan 21171-23A Proposed ground floor plan 21171-10 Proposed elevations 21171-11 Proposed first, second and roof floor plans 21171-30C
Reason for Referral to Committee	Tewkesbury Town Council has raised objections to the scheme.
Recommendation	Permit

Site Location



1. The Proposal

Full application details are available to view online at:

<http://publicaccess.tewkesbury.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=REUMEGQDKXJ00>

- 1.1 Change of use from bank (use class Ec(ii)) to takeaway (sui generis) on the ground floor and two 1-bed, 1-person flats on the first floor and one 1-bed, 2-person flat on the second floor (use class C3).

2. Site Description

- 2.1 The site is located within the Tewkesbury Town Centre, the primary shopping frontage and sandwiched between grade II and grade II* listed buildings and within the Tewkesbury Conservation Area.

3. Relevant Planning History

Application Number	Proposal	Decision	Decision Date
00/01091/ADV	Display of fascia sign (lettering) and projecting sign	REFCON	05.10.2000
03/00222/ADV	Display of projecting sign and internally illuminated ATM Box Panel sign.	REFCON	21.05.2003
95/00489/ADV	Display of externally illuminated hanging sign and fascia sign as per submitted plans	CONSEN	22.08.1995
T.1737	Change of use of ground floor shop to bank.	PERMIT	16.02.1954
T.1737/A	Proposed construction of a normal Barclays Bank front to premises.	PERMIT	15.06.1954
T.1737/B	Conversion of premises from shop to Bank with residence over.	PERMIT	21.12.1954
T.1737/D	Alterations to premises and Bank frontage.	PERMIT	24.06.1966
T.1737/F	Installation of an automatic cash dispenser in existing shopfront.	PERMIT	07.12.1987
T.189/ADVERT	Erection of hanging type sign in wrought iron and bronze reading 'Barclays Bank'.	PERMIT	18.12.1956
T.189/A/ADVERT	An illuminated fascia board to read 'Barclays Bank'.	PERMIT	29.06.1966
T.189/B/ADVERT	Display of one non-illuminated standard Barclays Bank sign.	PERMIT	16.10.1968

T.189/C/ADVERT	Display of two internally illuminated signs. 1) Fascia sign to read 'Barclays Bank - Tewkesbury Branch. 2) Projecting box sign to read 'Barclays'.	REFUSE	21.05.1975
T.189/D/ADVERT	Display of two non-illuminated signs. 1. Fascia sign to read 'Barclays Bank - Tewkesbury Branch'. 2. Double sided projecting box sign to read 'Barclays'.	REFUSE	28.10.1975
11/01212/ADV	1 no. non-illuminated heritage individually mounted letters sign and 1no. non-illuminated heritage projecting sign	CONSEN	30.01.2012
11/01266/FUL	Paint existing timber framed windows and door white to match existing first floor framework. Paint existing timber panelling and framework by ATM dark blue (RAL 5004)	PER	30.01.2012
66/00196/FUL	Alterations to premises and bank frontage (excluding illuminated fascia board).	PER	24.06.1966
87/00772/FUL	Installation of an automatic cash dispenser in existing shopfront.	PER	07.12.1987
56/00160/FUL	Erection of hanging type sign in wrought iron and bronze reading 'Barclays Bank'. Size 2'2" x 3'3" Height from ground level to top of sign 14'3"	PER	18.12.1956
66/00197/FUL	An illuminated fascia board to read BARCLAYS BANK. Overall size of panel 27'6" x 2'3". Height to top of sign 11'3"	PER	29.06.1966
68/00235/FUL	Display of one non-illuminated standard Barclays Bank sign. Overall size of sign 4'0" x 3'5 1/2". Height to top of sign 16'3".	PER	16.10.1968
75/00300/FUL	Display of two internally illuminated signs.	REF	21.05.1975
75/00301/FUL	Display of two non-illuminated signs.	REF	28.10.1975

4. Consultation Responses

Full copies of all the consultation responses are available online at <https://publicaccess.tewkesbury.gov.uk/online-applications/>.

4.1 Tewkesbury Town Council: Objection. Reasons are summarised below:

- 4.2**
- Hot food takeaway is not an appropriate use for this location
 - Would not promote active frontages
 - Noise and odour issues may occur
 - Impact of waste created by the proposal
 - Concern around the operating hours
 - Bin storage and tidy streets is a concern
 - Proposal lacking in details about the shop frontage and signage

- 4.3** Further comments submitted 27th October 2022. The main points being:
- The financial success of the development is not an issue for the Town Council.
 - Pleased that the flats now meet the space standards.
 - Still does not consider that the sui generis use of the ground floor is appropriate for reasons given previously.
 - Within this block there is 1 restaurant on the corner of Trinity St which stays open late, a pub opposite with opening hours strictly regulated with licencing permits and a Chinese takeaway which closes at 10pm and all other venues are open during the daytime.
 - Pavements are insufficient width for more bins.
 - A condition should be attached to ensure the business closes at 23:00 in-keeping with other local businesses.
- 4.4** **Conservation Officer:** No objection (signage and any external lighting will be assessed separately).
- 4.5** **Highways Officer:** No objection.
- 4.6** **Environmental Health:** No objection subject to 4 conditions.

5. Third Party Comments/Observations

Full copies of all the representation responses are available online at <https://publicaccess.tewkesbury.gov.uk/online-applications/>.

- 5.1** The application has been publicised through the posting of a site notice for a period of 21 days.
- 5.2** Third Party Comments: 8 Objection comments received. The main points are:

Tewkesbury Civic Society:

- Commend showing details of bin storage for residential and commercial use but a condition should be attached to ensure waste facility retention.
- No issues with the residential use provided bin storage is conditioned and the structural integrity of the neighbouring listed buildings is maintained.
- Objection regarding the change to a hot food takeaway which would significantly detract from the visual amenity of the historic shopping frontage, conservation area and the surrounding listed buildings.
- There are no details regarding signage submitted.

Other third-party objections:

- Concern regarding bright, shiny signage and frontages which would detract from the conservation area and listed buildings.
- Not enough waste bins here.
- No requirement for more pizza outlets here.
- Litter
- Noise
- Antisocial behaviour- the restaurant is expected to stay open until midnight.

- Recent planning legislation makes it easier to change the use of a building but treats hot food takeaways as an exception because of their impact on the town.
- Contradiction in the Council bidding for and getting funding for the Tewkesbury Heritage Action Zone supported by Historic England and then approving a takeaway between two listed buildings.
- Tewkesbury is a 'Healthy Town' so another fast-food takeaway contradicts this- already have a KFC and a Greggs soon to be open.
- Effects on wildlife both in rivers on the neighbouring nature reserve, The Ham and verges must be considered.
- Smell- will there be adequate venting, will it attract vermin?
- Inappropriate use of loading bay for people collecting food- may hinder delivery vehicles.
- There could be a problem with parking regarding the residential use causing problems for the Ambulance Station to the rear.
- The alley nearby will be where people shelter to eat their takeaway, which is not nice for those who live there.

6. Relevant Planning Policies and Considerations

6.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise

The following planning guidance and policies are relevant to the consideration of this application:

6.2 National guidance

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

This authority has a duty under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving the settings of conservation areas and listed buildings and their settings.

6.3 Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) – Adopted 11 December 2017

Policy SP2 (Distribution of New Development)
 Policy SD2 (Retail and City/Town Centres)
 Policy SD4 (Design Requirements)
 Policy SD8 (Historic Environment)
 Policy SD11 (Housing Mix and Standards)
 Policy SD14 (Health and Environmental Quality)
 Policy INF1 (Transport Network)

6.4 Tewkesbury Borough Local Plan to 2011-2031 (TBLP) – Adopted 8 June 2022

Policy RES2 Settlement Boundaries
 Policy RES5 New Housing Development
 Policy RES13 Housing Mix
 Policy RET1 Maintaining the Vitality and Viability of the Town, Borough and Local Centres
 Policy RET2 Tewkesbury Town Centre and Primary Shopping Frontages
 Policy RET6 Hot Food Takeaways
 Policy RET9 Tewkesbury Town Regeneration
 Policy HER1 Conservation Areas

Policy HER2 Listed Buildings
Policy DES1 Housing Space Standards
Policy DES3 Advertisements, Signs and Notice Boards
Policy DES4 Shopfronts
Policy TRAC9 Parking Provision

- 6.5** Supplementary Planning Documents (SPDs)
Shopfront Design Guidance SPD (April 2022)
Tewkesbury Town Regeneration SPD (April 2019)

7. Policy Context

- 7.1** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 7.2** The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), the Tewkesbury Borough Local Plan to 2011-2031 (June 2022) (TBLP), and a number of 'made' Neighbourhood Development Plans
- 7.3** The relevant policies are set out in the appropriate sections of this report.
- 7.4** Other material policy considerations include national planning guidance contained within the National Planning Policy Framework 2021 and its associated Planning Practice Guidance (PPG), the National Design Guide (NDG) and National Model Design Code.

8. Evaluation

Principle of development

- 8.1** The site is located within Tewkesbury Town Centre and policy SD2 of the JCS states that the area's city and town centres will be supported and strengthened to ensure that they continue to be the focus of communities. Initiatives which safeguard and enhance their role and function will be supported.
- 8.2** The site is also within the primary shopping frontage and policy SD2 goes on to explain that within the primary shopping frontage identified, the change of use of A1 (now use class Ea) (retail) premises will not be permitted, unless it can be demonstrated that the unit is not suitable for continued A1 use, the proposed use will maintain or enhance the vitality and viability of the area and it would not have a significant adverse impact on the amenity of adjacent residents or businesses.
- 8.3** Key principles for development in Centres
- i. New residential, retail, leisure, culture, tourism, office development and community facilities that contribute to the vitality and viability of designated centres will be promoted and supported;
 - ii. Town centre development will be of a scale that is appropriate to its role and function as set out above and will not compromise the health of other centres or sustainable development principles;

- iii. Proposals that help to deliver the regeneration strategies for Gloucester City Centre, Cheltenham Town Centre and Tewkesbury town Centre will be supported
- iv. The provision of new local centres of an appropriate scale to provide for the everyday needs of new communities within the identified Strategic Allocations will be permitted.

8.4 Policy RET1 of the TBLP states that proposals for main town centre uses within the hierarchy including retail and leisure development, must ensure that they:

- a) Are appropriate in location and scale, having regard to the hierarchy identified above;
- b) Support the viability and vitality of their respective retail area;
- c) Contribute to a safe, attractive and accessible environment;
- d) Are easily accessible by public transport, walking and cycling;
- e) Support any centre regeneration projects;
- f) Do not adversely impact on the amenity of neighbouring uses; and
- g) In the case of proposals at Tewkesbury Town, do not conflict with the requirements for the Primary Shopping Area at Policy RET2.
- h) In the case of proposals at Service Centres and Local Centres (including those within Strategic Allocations), do not conflict with the requirements at Policy RET3.

8.5 Policy RET1 goes on to explain that the full use of upper floors is strongly encouraged particularly where they are disused or underused; this will help to support a mix of uses and thus enhancing viability, while also encouraging maintenance of the whole building. Proposals should ensure that where appropriate independent access is retained or provided to upper floors.

8.6 Policy RET2 explains that within the Tewkesbury Town Centre Boundary, as defined on the Policies Map (excluding the Primary Shopping Frontages), proposals for main town centre uses and residential uses will be supported. Within the Tewkesbury Town Centre ground floor Primary Shopping Area, as defined on the Policies Map, proposals for retail shops (other than hot food) will be supported.

8.7 Policy RET2 goes on to explain that proposals involving the change of use from other main town centre uses (not retail shops) within the Primary Shopping Area will be permitted where the alternative use proposed is also a main town centre use. Where permission is required, proposals involving the change of use on upper floors within the Primary Shopping Area, proposals for residential use and main town centre uses will be supported. Within Tewkesbury Town Centre and its Primary Shopping Area, conditions to limit changes of use may be imposed on new planning permissions if justified on a case-by-case basis.

8.8 Policy RET2 states that within the Primary Shopping Area the Borough Council will seek to retain at least 60% of the frontages within retail shop use at ground floor level. 100m will be measured using the centre point of the frontage of the application site (i.e. 50m in either direction). Where this centre point is within 50m of the edge of the primary shopping frontage, then the measurement will be up to 50m in either direction but will not continue beyond the Primary Shopping Area designation.

8.9 However, as the site was formally a bank (use class Ec(i)) and not a retail shop then there is no loss of the retail function and as such this part of policy RET2 is not applicable. Furthermore, paragraph 6.6 of policy RET1 states that a bank and a hot food takeaway, whilst not a retail shop, are both retail uses. Whilst they are not the same use class, the Plan states they are retail uses.

- 8.10** Policy RET6 states that to avoid the over-concentration of hot food takeaways, the Borough Council will only grant permission for such proposals where they would not:
1. Result in more than two hot food takeaway outlets adjacent to each other; and
 2. Lead to more than two hot food takeaway outlets in any continuous frontage of 10 retail units or less
- If these thresholds are not breached, the Borough Council will consider proposals for hot food takeaway uses favourably, subject to all other retail policies, providing there would be no adverse impact on the amenity of neighbouring uses with regard to noise and odour pollution. All applications for hot food takeaway uses must be accompanied by full details of extraction and ventilation systems required.
- 8.11** The Town Council have objected to the change of use to a hot food takeaway. They have explained that a hot food takeaway business is not appropriate, and they have stated that Hot Food Takeaways are placed in the sui generis class in order to prevent their proliferation throughout high streets and to promote healthier lifestyles, and that policy RET6 of the Tewkesbury Borough Local Plan recognises this point. The Town Council have gone on to say that whilst there is no other such business within the ten properties closest to this one, there are around sixteen businesses within a distance of 400m from this property, from which hot food/drinks can be purchased and taken away, and at least two of these sell pizzas.
- 8.12** However, as the scheme would not result in more than two hot food takeaways adjacent to each other and would not lead to more than two hot food takeaways in any continuous frontage of 10 units, then the scheme is acceptable in principle. Policy RET6 does not have any other restrictions, therefore, whilst the Town Council may be correct in their assessment, this has no bearing on the assessment of the scheme against policy RET6.
- 8.13** The Town Council have stated that policy RET6 places importance on having active high street frontages during the daytime. They have stated that this frontage would not be active for the larger part of each morning, and during the times when it is open, the drawings indicate that customers would be sitting on a row of seats, facing out towards the street, perhaps while waiting for their orders to be fulfilled. They have stated that this does not really constitute activity and would not be in keeping with the heritage High Street. In the second comment submitted by the Town Council it was explained that should the application be recommended for approval a condition should be attached to ensure that closing time would be 23:00 in line with the other establishments. However, after consultation with the Environmental Health Officer a closing time of 24:00 is considered acceptable in this location. The opening times will be from 11am to 24.00pm. Therefore, as most shops open between 9 and 10am, this is not considered to be a considerable period of time when the takeaway will be closed. Furthermore, most shops have display windows blocking view of activity within the shop, whereas this takeaway will show active movement within it showing people collecting and waiting for orders. Therefore, the active frontage shall be maintained. Furthermore, paragraph 6.6 of policy RET1 states that a bank and a hot food takeaway are both retail uses. Whilst they are not the same use class, the Plan states they are retail uses.
- 8.14** Therefore, this part of the proposal is acceptable in principle subject to compliance with all other policies.

- 8.15** Policy SP2 of the JCS states to meet the needs of Tewkesbury Borough, none of which is being met by the urban extensions to Gloucester and Cheltenham, the JCS will make provision for at least 9,899 new homes. At least 7,445 dwellings will be provided through existing commitments, development at Tewkesbury town in line with its role as a market town.
- 8.16** Policy RES2 of the TBLP states that the defined settlement boundaries of the Tewkesbury Town Area, the Rural Service Centres, the Service Villages and the Urban Fringe Settlements (which are shown on the policies map) the principle of residential development is acceptable subject to the application of all other policies in the Local Plan.
- 8.17** Policy RES13 of the TBLP states that in accordance with Policy SD11 of the Joint Core Strategy to 2031 new housing developments, including affordable housing, will be expected to provide for an appropriate mix of dwelling sizes, types and tenures to meet the needs of the local area, including the needs of older people and vulnerable groups. Housing mix should be based on the most up to date evidence of local housing need and market demand, including the Strategic Housing Market Assessment, Parish Surveys and local evidence provided to support Neighbourhood Plans.
- 8.18** The site is located within the defined settlement boundary of the Tewkesbury Town Area and will involve the conversion of upper floors above the primary shopping frontage to residential use. Therefore, the principle of the change of use to residential (C3 use class) is accepted subject to compliance with all other policies.

Design and Visual Amenity and impact on the setting of the surrounding listed buildings and Tewkesbury conservation area.

- 8.19** The proposal is within the setting of a number of listed buildings, most notably the grade II and grade II* listed building either side of the building and within the Tewkesbury Conservation Area. As such when determining planning applications this authority has a duty under Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving listed buildings and conservation areas and their settings. The proposal will also be assessed against section 16 of the NPPF, Policy SD8 of the JCS and Policy HER2 of the Local Plan.
- 8.20** Paragraph 189 of the NPPF states that: Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 8.21** Paragraph 200 of the NPPF states that: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 8.22** Policy SD4 of the JCS relates to design requirements and requires proposals to demonstrate how the following principles have been incorporated; context, character and sense of place, legibility and identity, amenity and space, public realm and landscape, safety and security, inclusiveness and adaptability and movement and connectivity.

8.23 Policy SD8 of the JCS states that: Development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment. The policy also states that: Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place.

8.24 Policy HER2 of the Local Plan states that: Alterations, extensions or changes of use to Listed Buildings, or development within their setting, will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings.

8.25 Policy RES5 states that in considering proposals for new housing development regard will be had to the following principles. Proposals should:

- be of a design and layout that respects the character, appearance and amenity of the surrounding area and is capable of being well integrated within it;
- be of an appropriate scale having regard to the size, function and accessibility of the settlement and its character and amenity, unless otherwise directed by policies within the Development Plan;
- where an edge of settlement site is proposed, respect the form of the settlement and its landscape setting, not appear as an unacceptable intrusion into the countryside and retain a sense of transition between the settlement and open countryside;
- not cause the unacceptable reduction of any open space (including residential gardens) which is important to the character and amenity of the area;
- provide an acceptable level of amenity for the future occupiers of the proposed dwelling(s) and cause no unacceptable harm to the amenity of existing dwellings;
- make provision for appropriate parking and access arrangements and not result in the loss or reduction of existing parking areas to the detriment of highway safety;
- incorporate into the development any natural or built features on the site that are worthy of retention;
- Make provision for the delivery of efficient and effective high-quality household waste collection services that supports the implementation of the waste hierarchy and encourages the practice of resource efficiency and waste reduction;
- address any other environmental or material planning constraints relating to the site.

8.26 A number of objections have been received regarding the change to a hot food takeaway which has been explained to significantly detract from the visual amenity of the historic shopping frontage, conservation area and the surrounding listed buildings. The objections have also stated that there are no details regarding signage submitted and that there is a contradiction in the Council bidding for and getting funding for the Tewkesbury Heritage Action Zone supported by Historic England and then approving a takeaway between two listed buildings.

8.27 The Town Council has stated that there is too little information about what the proposed shop frontage will look like and that the Town Council regrets this missed opportunity to remodel the frontage to bring it into line with the Shop Fronts SPD, as the current doors and windows at ground floor level are completely out of character with those of neighbouring properties. The Council would also wish to be assured that all associated signage will be designed with appropriate sensitivity and that none of it will be internally illuminated.

8.28 However, this application is solely for the change of use of the ground floor to a hot food takeaway and the upper floors to residential use. A separate advertisement consent application would need to be submitted for signage. The Council's Local Plan identifies that a hot food takeaway is a main town centre use, and the conservation officer has been consulted and has no objection to this change of use. Therefore, as there are no changes to the external appearance of the property, other than decorating the existing windows and door frames black and ventilation and extraction units to the rear, the scheme is considered to have a neutral impact on the setting of the surrounding listed buildings and this part of the Tewkesbury Conservation Area.

Residential Amenity

8.29 JCS policies SD4 and SD14 require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants.

8.30 Policy RES5 states that in considering proposals for new housing development regard will be had to the following principles. Proposals should (amongst other criteria):

- provide an acceptable level of amenity for the future occupiers of the proposed dwelling(s) and cause no unacceptable harm to the amenity of existing dwellings;

8.31 Policy DES1 explains that Tewkesbury Borough Council adopts the Government's nationally described space standards. All new residential development will be expected to meet these standards as a minimum. Any departure from the standards, whether for viability of physical achievability reasons, will need to be fully justified at planning application stage. New residential development will be expected to make adequate provision for private outdoor amenity space appropriate to the size and potential occupancy of the dwellings proposed.

8.32 Policy RET6 states that to avoid the over-concentration of hot food takeaways, the Borough Council will only grant permission for such proposals providing (amongst other factors) there would be no adverse impact on the amenity of neighbouring uses with regard to noise and odour pollution. All applications for hot food takeaway uses must be accompanied by full details of extraction and ventilation systems required.

8.33 The Town Council have correctly stated that the flats shown originally were below the nationally described space standards. Therefore, during the course of the application the applicant was minded that all flats and most of the bedrooms failed to meet the nationally designated space standards. Revised plans were submitted to show that the flats and bedrooms were in line with the space standards for a 1-bed, 1 person flat and a 1-bed, 2 person flat. The description of the development was therefore updated to reflect this change.

8.34 Comments have been submitted to explain that a condition should be attached to ensure the waste facility retention. Considering this is an important element of the scheme a condition shall be attached to ensure that prior to first use of the hot food takeaway and flats, that the waste facilities as shown on plan reference: 21171-23A are installed. This condition is considered necessary to ensure adequate residential amenity for all occupiers.

- 8.35** Objection comments have stated that there are not enough waste bins here and that this will create litter. The Town Council have also stated that the pavements are not wide enough to accommodate more bins. The environmental health officer has been consulted and has explained that there is no objection subject to a number of conditions, but there has been no concern raised regarding the number of waste bins in the locality. It is not considered that the provision of a hot food takeaway in this location would have a significant impact on litter in this location.
- 8.36** Further objection comments have stated that there will be noise and antisocial behaviour particularly as the restaurant is expected to stay open until midnight. Here it must be highlighted that a residential use above a retail unit is not an uncommon situation in most towns and cities. It is important to emphasise that any future residents would be aware that a hot food takeaway was in-situ before purchasing the flats and as such it would be up to the occupier regarding any perceived disturbance that they may experience as a result of this. It is also not considered that there is any substantive evidence to show that the provision of a hot food takeaway creates antisocial behaviour.
- 8.37** Full details of extraction and ventilation systems have been provided and the environmental health officer has recommended a number of conditions. Regarding noise, officers agree that a condition shall be attached to ensure that deliveries to, and collections (Including refuse and recycling) from, the takeaway element of the development shall not be made outside the following hours: 08:00 – 20:00. This shall not include deliveries of takeaway food directly to customers. This condition is considered necessary to protect the noise climate and amenity of local residents. A further condition shall be attached to ensure that prior to first occupation of the flats a scheme of sound insulation works to the (floor/ceiling) structure between the takeaway and First Floor Flats shall be submitted to and agreed by the Local Planning Authority in writing. This condition is again considered necessary to ensure adequate residential amenity for future occupiers. An opening hours condition is also required to ensure that the takeaway development shall not be open to customers outside the following hours; 8:00 – 24:00 to protect residential amenity of neighbouring occupiers.
- 8.38** The Environmental Health Officer has been consulted and officers agree that a condition is required to ensure that prior to commencement of the development a noise assessment is submitted to the Council for further consideration and sign off. This condition is considered necessary to ensure an acceptable noise impact for any future occupiers of the flats. As this is a pre-commencement condition confirmation has been received from the applicant to attach this condition in the email dated 13th October attached to this file.
- 8.39** Other objection comments have stated that Tewkesbury is a 'Healthy Town' so another fast-food takeaway contradicts this, particularly as there is already a KFC and a Greggs soon to be open. However, a hot food takeaway is considered a main town centre use which is encouraged in this area.
- 8.40** Objection comments have been submitted regarding smell and whether there will be adequate venting, and whether this will attract vermin. The environmental health officer has been consulted and has explained that there are no objections to the scheme subject to a number of conditions and has not made reference to any issues regarding smells and vermin. Therefore, the ventilation system is considered to be acceptable and there is not considered to be any significant impact regarding smell and vermin.

8.41 Further objection comments have explained that the alley nearby will be where people shelter to eat their takeaway, which is not nice for those who live there. However, there is no substantive evidence to suggest that this will be the case, and overall, the scheme, subject to the recommended conditions, is considered to have an acceptable residential amenity impact.

Highways

8.42 Policy INF1 of the JCS sets out that permission shall only be granted where the impact of development is not considered to be severe. It further states that safe and efficient access to the highway network should be provided for all transport means.

8.43 Policy TRAC9 of the TBLP states that proposals for new development that generate a demand for car parking space should be accompanied by appropriate evidence which demonstrates that the level of parking provided will be sufficient. The appropriate level of parking required should be considered on the basis of the following:

- 1) the accessibility of the development;
- 2) the type, mix and use of development;
- 3) the availability of and opportunities for public transport;
- 4) local car ownership levels;
- 5) an overall need to reduce the use of high emission vehicles; and
- 6) a comparison of the forecast trip generation and resultant accumulation with the proposed parking provision.

8.44 Objection comments have been submitted to explain that there would be inappropriate use of the loading bay for people collecting food which may hinder delivery vehicles. Other comments have suggested that there could be a problem with parking regarding the residential use causing problems for the Ambulance Station to the rear. However, the highways team have been consulted and have explained that they have taken a robust assessment and conclude that there would not be an unacceptable impact on highway safety, nor a severe impact on congestion.

8.45 It must also be noted here that the parking and loading bay areas are subject to traffic Regulation Orders (TROs) and are actively managed and enforced appropriately.

8.46 There are three car parking spaces for the residential units and two parking spaces for the commercial unit to the rear, which is considered acceptable.

8.47 Furthermore, it is noted that the property benefits from a legal Right of Way providing vehicular access to the rear of the building. This Right of Way has been in existence and use for many years and there are no proposed changes to this.

8.48 A condition shall be attached to ensure that these parking spaces are in-situ prior to first use of the hot food takeaway and flats.

Drainage

- 8.49** JCS Policy INF2 advises that development proposals must avoid areas at risk of flooding and must not increase the level of risk to the safety of occupiers of a site and that the risk of flooding should be minimised by providing resilience and taking into account climate change. It also requires new development to incorporate Sustainable Urban Drainage Systems (SUDS) where appropriate to manage surface water drainage. This advice is reflected within the council's Flood Risk and Water Management SPD.
- 8.50** The site is in a low flood risk area and the applicant has stated that surface water runoff will be disposed of through the mains sewer. This is considered acceptable.

Other issues

- 8.51** Objection comments have been submitted to explain that effects on wildlife both in rivers on the neighbouring nature reserve, The Ham and verges must be considered. However, it is not considered that the provision of this hot food takeaway will have any significant impact on wildlife in these areas considering the distances between the site and these areas. The impact would be the same as the impact that any of the retail uses in the vicinity would have, which is considered minimal.

9. Conclusion

- 9.1** It is considered that the proposal would accord with relevant policies as outlined above. Therefore, it is recommended that planning permission be granted subject to the recommended conditions.

10. Recommendation

- 10.1** The proposal accords with relevant policies as outlined above, it is therefore recommended the application be **permitted** subject to the following conditions:

11. Conditions

- 1** The works hereby permitted shall be begun before the expiration of three years from the date of this consent.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2** The development hereby permitted shall be carried out in accordance with the application form and drawing numbers:

21171-30C received 12th October 2022
21171-02A, 21171-03, 21171-10, 21171-11A, 21171-16, 21171-21A, 21171-22A and 21171-23A received 11th July 2022.

except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

- 3** Prior to first use of the hot food takeaway and the residential flats hereby permitted the waste facilities as shown on plan reference: 21171-23A shall be installed.

Reason: to ensure adequate residential amenity for all occupiers.

- 4** Prior to commencement of the development details shall be submitted regarding the potential impact of noise generated by the proposed takeaway development at the proposed new First Floor and Second floor flats and the nearest existing receptors. Details of any external plant, including ventilations facilities, air conditioning equipment and their noise generation levels or machinery associated with the development, and any noise attenuation measures shall be submitted to and approved in writing by the Local Planning Authority.

The submitted details shall demonstrate that the cumulative assessment level (excess of rating level over background level (LA90) level of sound emitted from any fixed plant or machinery associated with the development shall not exceed 0dBA at the nearest noise sensitive receptor(s). All measurements shall be made in accordance with the methodology of BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound. Only external plant in accordance with the approved details shall be provided on the site.

Reason: To ensure there is no detrimental noise effects upon the amenities of the area or nearby properties

- 5** Prior to first occupation of the flats hereby approved a scheme of sound insulation works to the (floor/ceiling) structure between the takeaway and First Floor Flats shall be submitted to and agreed by the Local Planning Authority in writing.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

- 6** Deliveries to, and collections (Including refuse and recycling) from, the takeaway element of the development shall not be made outside the following hours: 08:00 – 20:00. This does not include deliveries of takeaway food directly to customers.

Reason: To protect the noise climate and amenity of local residents

- 7** The takeaway development shall not be open to customers outside the following hours; 8:00 – 24:00.

Reason: To protect the noise climate and amenity of local residents

- 8** The parking spaces as shown on plan reference 21171-23A shall be in-situ prior to first of the development hereby permitted.

Reason: To ensure highway safety and an adequate amount of parking in accordance with policy INF1 of the Joint Core Strategy (2017) and policy TRAC9 of the Local Plan (2022).

12. Informatives

- 1** In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing the to the Council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.