

Planning, Design and Access Statement

47 Commercial Street
Brighouse
West Yorkshire
HD6 1AF

26 November 2020

Change of Use from a Bookmakers (Sui Generis Use) to a Hot Food Takeaway (Sui Generis Use) with internal and external alterations



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1. Introduction

- 1.1. This planning, design and access statement has been prepared to support an application for full planning permission for the change of use of 47 Commercial Street, Brighthouse, (hereafter 'the application site') from a bookmakers (Sui Generis Use) to a hot food takeaway (Sui Generis Use) with internal and external alterations.
- 1.2. By way of context, the applicant was founded in 1984 in Indiana, USA. The company has grown substantially since then and is now one of the largest pizza groups in the world with over 4,000 outlets in 36 countries. Most of the outlets are owned and operated under a franchise agreement and can provide up to 20 jobs. In the UK Papa John's (GB) Ltd operate approximately 400 stores nationwide.
- 1.3. The purpose of this statement is to describe the site and its location; describe the application proposal; explain the relevant planning history; identify the policy context; explain design and access considerations; and assess the extent to which it complies with the Development Plan and other material considerations.
- 1.4. The application is accompanied by a Location Plan, Elevations and Floor Plans.
- 1.5. The remainder of this report follows the structure set out below:
 - Section 2 – Site Location and Description;
 - Section 3 – Proposed Development;
 - Section 4 – Relevant Planning History;
 - Section 5 – Planning Policy Context;
 - Section 6 – Design and Access Considerations;
 - Section 7 – Planning Justification; and,
 - Section 8 – Conclusions.



2. Site Location and Description

Application Site Location

- 2.1. The application site is located within the designated Brighthouse Town Centre on the south side of Commercial Street at the junction with Market Street inside the designated Town Centre. The Commercial Street frontage is in the designated Primary Shopping Frontage whilst the Market Street frontage is in the Secondary Shopping Frontage
- 2.2. Neighbouring the application site to the the west on Commercial Street is a linen shop and to the east on the other side of the junction with Market Street is a charity shop. There are additional shops to the front of the property (north side of Commercial Street) and to the rear (Nos.6 and 8 Market Street) beyond which is a gated service yard. There is a separate office above the application site currently occupied by a taxi operator. There are parking bays on the north side of Commercial Street and east side of Market Street payable between 8am to 6pm. The bus station is located on Ganny Road which is the next road to the north of Commercial Street.
- 2.3. The application site is neither located in a Conservation Area nor an area at risk of flooding.

Application Site Description

- 2.4. The application site comprises a dual aspect ground floor shop in an end of terrace two storey building. It also incorporates a dedicated area in the rear service yard beyond Nos.6 and 8 Market Street to store bins. The shopfront on Commercial Street comprises a glazed double entrance door on the east side, above which is a narrow fanlight, and a single display window with pilasters at either end. The shopfront on Market Street predominately comprises four display windows with mullions above a stall riser with pilasters in between. There is small area of dead frontage comprising a brick façade at the southern end. There are fascia signage boards running along the length of both frontages. There is also a hanging sign on the Commercial Street frontage. The building is neither statutorily nor locally listed.
- 2.5. The floor area of the application site is approximately 76.2sq m (820.0sq ft).
- 2.6. The application site is currently vacant but was last used by as a William Hill bookmaker (Sui Generis Use).



3. Proposed Development

- 3.1. The proposed development comprises the change of use of 47 Commercial Street from a bookmaker (Sui Generis Use) to a hot food takeaway (Sui Generis Use) with internal and external alterations. The Proposed Floor Plan illustrates the internal layout of the pizza takeaway operation, namely: a customer order and waiting area at the front of the premises, beyond which would be a kitchen and cold store, with a washing-up area, control hub (dispatch area) and staff WC at the rear.

Internal Alterations

- 3.2. Internal works include the installation of a customer reception area and sales counter, gas oven, extraction system comprising stainless steel extract hood, galvanised ductwork and fans, preparation tables, refrigerators, freezers, cold store, sinks and dispatch tables.

Extraction and Ventilation System

- 3.3. Full details of the proposed extraction and ventilation system are contained in a separate document, which has been submitted in support of the application ('Supporting Information on the Proposed Extraction System and Plant'). In summary, a canopy would be installed over the entire cooking area with an extraction system to remove heat produced from the pizza oven; this would comprise ducting, which would be lined with acoustic material, contain an Ozone odour control and lead to a flue, which would exit the side (east) of the property via a louvre grille. The latter is a replacement feature given an old one already exists on the side elevation.
- 3.4. A single condenser unit is also proposed to be fixed to the rear (south) at roof level to replace 2no. existing condenser units in the same location.
- 3.5. The extraction system has been specifically designed to Papa Johns' specifications and reflects the fact that all products are oven cooked using conveyor ovens only. The extraction system removes heat produced from the oven and an air supply system would remove oven fumes and ventilates the premises.

Shop Front

- 3.6. A new aluminium shopfront will be installed on the front (north) and side (east) elevations comprising a new single glazed aluminium framed door adjacent to Commercial Street, aluminium cladding to the pilasters and finished in RAL9005 coloured paint.



Hours of Operation and Service Deliveries to the Premises

- 3.7. Planning permission is sought for the use to operate from 11:00am to 03:00am seven days a week and on Bank Holidays.
- 3.8. The applicant has a centrally controlled logistics operation to deliver fresh dough and other products necessary to meet the business needs of each store. The delivery model is company-wide and based on three deliveries per week; two deliveries from the main distribution centre, using fixed-based tend tonne delivery vehicles; and one by the drinks supply partners, Coca Cola, utilising a 7.5 tonnes non-articulated delivery vehicle.
- 3.9. Food deliveries to the store would be made twice a week and on regular days to maintain stock levels in the store. Drinks deliveries would be made once per week. It is proposed that the deliveries of produce to the premises will be made on the road at the front of the property. There is a loading bay to the north-east of the application site.
- 3.10. Home delivery vehicles associated with the proposed use would make use of the dedicated parking spaces in the vicinity. Nevertheless, as most orders are for home delivery and in view of the peak business hours, it is not expected that the proposed change of use would have an adverse impact on the operation of the local road network or highway safety.

Refuse Storage and Collection Arrangements

- 3.11. The takeaway operator has a standard contract with a pest control agency to control and manage the presence of vermin around their premises. To prevent nuisance from pests, refuse from the proposed operation would be stored in two Biffa lockable bins which would be sealed to prevent pests gaining access. These would be kept in the service yard at the rear of Nos. 6 and 8 Market Street; one refuse bin would be for general waste and one for cardboard recycling. Both bins would be emptied on a weekly basis; contractors would retrieve the bins, empty them and replace them thereafter.



4. Relevant Planning History

Site Planning History

- 4.1. There is only one planning application record for the property on the Council's online planning portal. Planning application **09/01172/FUL** for a *'Change of use from vacant retail shop to betting shop (A2), alterations to shop fronts, and installation of air conditioning units, satellite dish and one TV aerial'* was granted planning permission on 27 October 2009. The wording of the description of development would suggest its lawful use is a financial and professional service (Use Class A2) but bookmakers and betting shops were subsequently changed to Sui Generis Use.

Planning History of Nearby Sites

- 4.2. Planning permission **06/02059/CON**, which relates to a hot food takeaway (Domino's) at No.76 Commercial Street (north side of the street immediately to the north-east of the application site), also in the Primary Shopping Frontage was allowed, amongst other things, on the basis of the Replacement Calderdale Unitary Development Plan (RCUDP) Planning Inspector's interpretation of Policy S6. The Inspector's Report (p228) confirmed that Policy S6:

"...does not preclude A2-A5 uses but tries to ensure they do not become disproportionate in the heart of the shopping area."

- 4.3. The delegated report for planning permission 06/02059/CON (**Appendix 1** refers) confirms:

*"The end of the Policy states that uses outside of A2 or A3 will not be permitted. **It is however evident that the Policy was not changed to take into account the change in the Use Classes Order in April 2005 in which Take-Away establishments were moved out of A3 into a separate category, A5 use.**"* (underlined and highlighted text – our emphasis)



5. Planning Policy Context

- 5.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to achievement of sustainable development.
- 5.2. The Statutory Development Plan for an individual site comprises those Local Planning Documents which have been the subject of Examination in Public or testing through Public Inquiry and are adopted having been through due processes.

Development Plan Policy

- 5.3. The Statutory Development Plan most relevant to the proposed development comprises the following documents:
- Replacement Calderdale Unitary Development Plan – Saved Policies (adopted August 2006).

Replacement Calderdale Unitary Development Plan – Saved Policies

- 5.4. The Replacement Calderdale Unitary Development (UDP) was adopted by the Council in August 2006 and most policies were saved in 2009 by a direction issued by the Secretary of State. The UDP sets out the spatial vision, objectives, development strategy, site allocations and development control policies to guide development over the plan period 2001 to 2016. The application site is located within the designated Brighouse Town Centre, Primary Shopping Frontage (Commercial Street) and Secondary Shopping Frontage (Market Street), as defined on the Proposals Map that accompanies the UDP. The saved policies of most relevance to the proposed development are identified below and overleaf.
- 5.5. **Saved Policy GS1** (Retail Strategy) states:

“The benefits of a modern, competitive, environmentally attractive and sustainable retailing sector including the upgrading, modernisation and enhancement of retailing provision within town centres and locations highlighted within the retail hierarchy will be sought which meet the needs of Calderdale’s residents.

As part of this strategy the vitality and viability of existing centres will be maintained to ensure that they remain attractive to shoppers and visitors and can compete effectively with other centres and other forms of retailing.”



5.6. **Table 6.1** sets out Calderdale's retail hierarchy comprising Halifax, the major town centre, five town centres, one of which is Brighouse, local centres and local shops.

5.7. **Saved Policy S6** (Primary Shopping Frontages) states:

"In the Primary Shopping Frontages identified on the Proposals Map proposals for the development/redevelopment or change of use of ground floor premises in retail use (Class A1) to uses within Class A2 and A3 will be permitted unless they would either:-

- i. create a continuous frontage of more than two non Class A1 uses, or exceed 15m of continuous frontage in non-Class A1 use;*
- ii. or result in more than about 15% of the total length of street frontage in any one street of any one block being in non-Class A1 use.*

Uses outside Classes A1, A2 or A3 will not be permitted."

5.8. **Saved Policy S7** (Secondary Shopping Frontages) states:

"In the Secondary Shopping Frontages identified on the Proposals Map proposals for the development/redevelopment or change of use of ground floor premises in retail use (Class A1) to uses not within Class A1 will be permitted unless they would either:-

- i. create a continuous frontage of more than three non-Class A1 uses, or exceed 21m of continuous frontage in non-Class A1 use; or*
- ii. result in more than about 30% of the total length of street frontage in any one street of any one block being in non-Class A1 use."*

5.9. **Saved Policy S15** (Hot Food Takeaways) states:

"Proposals for hot food takeaways will be permitted where they comply with the following criteria:-

- i. no unacceptable environmental, safety or other problems are created;*
- ii. the proposed development would not increase the level of disturbance or nuisance to a level that would be unduly detrimental to the amenities enjoyed by anyone living in the area;*
- iii. the proposed development would not generate traffic movements or demand for parking that would be unduly detrimental to highway safety or residential amenities;*



- iv. *the proposals make adequate and satisfactory arrangements for the discharge of cooking fumes and smells;*
- v. *the proposals comply with shopping frontage policy;*
- vi. *the development preserves or enhances Conservation Areas and does not adversely affect Listed Buildings or their settings, where these are material considerations; and#*
- vii. *other relevant UDP policies are met.*

Proposals should apply a sequential approach to site location. Sites or buildings within town and local centres defined in the retail hierarchy or within other unnamed small parades of shops within the urban areas or smaller settlements should be considered first and, only when such sites or buildings are not available will proposals in freestanding locations be acceptable. Where proposals are considered to be acceptable, restrictions may be imposed on hours of opening in order to protect the amenity and character of the area within which the site is located.”

5.10. Saved Policy BE1 (General Design Criteria) states:

“Development proposals should make a positive contribution to the quality of the existing environment or, at the very least, maintain that quality by means of high standards of design. Where feasible development should:-

- i. *respect or enhance the established character and appearance of existing buildings and the surroundings in terms of layout, scale, height, density, form, massing, siting, design, materials, boundary treatment and landscaping;*
- ii. *retain, enhance or create any natural and built features, landmarks or views that contribute to the amenity of the area;*
- iii. *be visually attractive and create or retain a sense of local identity;*
- iv. *not intrude on key views or vistas;*
- v. *not significantly affect the privacy, daylighting and amenity of residents and other occupants;*
- vi. *incorporate landscaping and existing trees that contribute significantly to the amenity and nature conservation value of the local environment as an integral part*



of the development site's design and where appropriate incorporate locally native plants and create wildlife habitats;

vii. be energy efficient in terms of building design and orientation; and

viii. include consideration of the needs of security and crime prevention.”

5.11. Saved Policy GT4 (Hierarchy of Consideration) states:

“TO ASSIST IN THE CONSIDERATION OF DEVELOPMENT PROPOSALS AND THE DESIGN OF SCHEMES FOR TRANSPORT A HIERARCHY OF CONSIDERATION HAS BEEN DEFINED. THIS WILL ENSURE THAT THE NEEDS AND SAFETY OF EACH GROUP OF ROAD USERS ARE SEQUENTIALLY CONSIDERED AND THAT EACH USER GROUP IS GIVEN PROPER CONSIDERATION SO THAT NEW SCHEMES WILL IDEALLY IMPROVE EXISTING CONDITIONS AND IN ANY EVENT WILL NOT MAKE CONDITIONS WORSE FOR THE MORE VULNERABLE TRANSPORT USERS.THE HIERARCHY OF CONSIDERATION IS AS FOLLOWS:-

I. PEDESTRIANS, PEOPLE WITH DISABILITIES AND EMERGENCY SERVICES;

II. CYCLISTS AND HORSE RIDERS;

III. PUBLIC TRANSPORT USERS;

IV. TAXIS AND MOTORCYCLISTS;

V. DELIVERIES TO LOCAL AREAS;

VI. SHOPPERS TRAVELLING BY CAR;

VII. OTHER FREIGHT MOVEMENTS;

VIII. OTHER HIGH OCCUPANCY VEHICLES; AND

IX. OTHER PRIVATE CARS.

THE ACTUAL PRIORITIES AND FACILITIES PROVIDED FOR EACH ROAD USER GROUP WILL VARY WITH INDIVIDUAL CIRCUMSTANCES AND IT MAY NOT ALWAYS BE POSSIBLE OR NECESSARY TO PROVIDE ADEQUATE FACILITIES FOR ALL ROAD USERS. HOWEVER, WHEREVER POSSIBLE FACILITIES SHOULD BE PROVIDED FOR PEDESTRIANS, PEOPLE WITH DISABILITIES, CYCLISTS AND BUS USERS.”



Material Considerations

- 5.12. Material considerations include the National Planning Policy Framework, permitted development rights, the Emerging Calderdale Local Plan 2018-2033 and material planning decisions, including planning permission 06/02059/CON at No.76 Commercial Street (**Paras 4.2-4.3** refer).

National Planning Policy Framework (The Framework)

- 5.13. The Framework, revised in February 2019, states that the purpose of the planning system is to contribute to the achievement of sustainable development by performing an economic role, social role and environmental role. Critically, the Framework requires these roles to be delivered simultaneously through the planning system, delivering mutually dependent benefits. The Framework places a presumption in favour of sustainable development (**Paragraph 10**).
- 5.14. The Framework clarifies that the presumption in favour means proposals that accord with an up-to-date development plan should be approved without delay, or *“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date”*, planning permission should be granted unless, *“...policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed”* (Footnote 6), or *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”* (**Paragraph 11**).
- 5.15. **Paragraph 85** outlines the approach that local authorities and their policies should take towards supporting the role that town centres play at the heart of local communities, done through placing emphasis on the following points, amongst other things:
- a) *“Define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allow a suitable mix of uses (including houses) and reflects their distinctive characters;*
 - b) *Define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre...”*
- 5.16. **Paragraph 86** highlights the structure that planning authorities should follow in assigning where uses are best set within the hierarchy of centres, edge-of-centres and out of town locations. The policy states *“... main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites to be considered.”*



- 5.17. **Paragraph 109** outlines that developments should only be prevented or refused on highway grounds if there would be an *“unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.”*
- 5.18. **Paragraph 180** states that in planning decisions the effects of new development must be considered in an appropriate location considering the likely effects of pollution on health and living conditions.
- 5.19. **Annex 2** defines ‘Main Town Centre Uses’ as *“Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).”*

Permitted Development Rights

- 5.20. *The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020* came into force on 1st September 2020. These revoked the following use classes: A1 shops; A2 financial & professional services; A3 restaurants & cafes; A4 drinking establishments; A5 takeaways; B1(a) offices; B1(b) research & development; B1(c) light industrial; D1 non-residential institutions; and, D2 assembly & leisure. A new Use Class E (Commercial, Business and Service) will be created; this will entail existing A1, A2, A3 and B1 classes and part of D1 and D2 classes.
- 5.21. This new use class therefore reinforce the Government’s commitment to promoting flexibility of uses in town centres and securing economic growth in order to create jobs and prosperity.

Emerging Calderdale Local Plan 2018-2033

- 5.22. The Emerging Calderdale Local Plan 2018-2033 (LP) is currently under independent examination. Stage 2 hearing sessions are currently taking place. The Policies Map that accompanies the LP Publication Draft shows the property will continue to be located inside the designated Brighouse Town Centre, Primary Shopping Frontage (Commercial Street) and Secondary Shopping Frontage (Market Street).
- 5.23. **Draft Policy RT1** (Calderdale Retail Hierarchy and Town Centre Uses) states:

“The vitality and viability of the Borough’s retail centres will be maintained and enhanced by directing retail, leisure and other main town uses (as defined in the NPPF) towards the centres in line with the network and hierarchy identified below:...”



5.24. The retail hierarchy identified within Draft Policy RT1 includes Halifax, the strategic town centre, five town centres, one of which is Brighouse, district centres, local centres and neighbourhood centres.

5.25. **Draft Policy RT2** (Primary Shopping Areas and Shopping Frontages) states:

“Primary Shopping Areas, Primary Shopping Frontages and Secondary Shopping Frontages have been defined within Halifax and the other Town Centres to safeguard these core retail centres which will be the focus for main town centres uses.

*The **Primary Shopping Area** is the retail core where retail uses and other main town centre uses will be the focus. For Halifax and the other Town Centres an individually defined area has been derived, whilst for District Centres and Local Centres this is the full extent of the defined centre boundary. Retail and other main town centre use proposals in Primary Shopping Areas will be permitted where:*

- i. an active ground floor use is maintained or provided; and*
- ii. a positive contribution is made to the vitality, viability and diversity of the Primary Shopping Area and town centre; and*
- iii. retail floorspace is not lost which would be harmful to the shopping function of the centre.*

***Primary Shopping Frontages** are frontages within the Primary Shopping Areas as defined for Halifax and the other Town Centres. These frontages contain and be the focus for further retail uses. In order to retain the viability and vitality of the retail core, proposals in the Primary Shopping Frontages at street level should contain retail uses. To ensure that retail remains the predominant use, proposals will be permitted where the proposal is for Class A1 use. Other main town centre uses may be acceptable within the Primary Shopping Frontage where the proposal would:*

- i. not harm the predominant retail character of the shopping frontage;*
- ii. generate significant pedestrian visits during shopping hours;*
- iii. complement the existing shopping function and neighbouring uses within the town centre;*
- iv. not create an over concentration of similar uses other than A1 Classes creating a significant break in the shopping frontage; and*



- v. *retain and repair historic shop fronts or, where there are none, improve shop front design.*

Secondary Frontages are frontages within and adjacent to the Primary Shopping Areas as defined for Halifax and the other Town Centres. These frontages consist of retail as well as a mix of other 'main town centre uses'. In order to retain the viability and vitality of the retail core, proposals in the Secondary Shopping Frontages at street level should continue retail uses and include other main town centre uses. Proposals within the secondary frontages will be permitted where:

- i. *the proposal is for a retail use (A1), a professional and financial services use (A2), or a café and restaurant (A3);*
- ii. *the proposal is for a drinking establishment (A4) or hot food takeaway (A5) provided the development, either alone or cumulatively with other A4 and A5 uses in the frontage, does not have an adverse impact on local amenity, including as a result of fumes, noise, hours of operation or the visual impact of ducting; or*
- iii. *the proposal is for a leisure or community use which accords with RT6.*

and

- i. *complement the retail function of the centre and not harm its vitality, viability or diversity;*
- ii. *proposals to either retain, enhance or replace shop fronts to improve design and layout and attractiveness of the centre;*
- iii. *provides an active frontage at ground floor level;*
- iv. *the proposal would not lead to a dominance of non-retail uses in a particular frontage or fragment frontages;*
- v. *complement neighbouring uses;*
- vi. *provide a diversity of uses within the Secondary Shopping Frontage; and*
- vii. *generate a reasonable level of footfall and be of general public interest or service.*

Outside of the Primary Shopping Areas, but within defined centres, all main town centre use proposals will be considered acceptable in principle."



5.26. **Draft Policy HW6** (Hot Food Takeaways) states:

“Proposals for hot food takeaways will be permitted where they meet the following criteria:-

- i. The proposed development is not within 400m of the principal entry point to a school except where the application site is within the designated town centres of Halifax, Sowerby Bridge, Brighouse, Elland, Hebden Bridge or Todmorden;*
- ii. No unacceptable environmental, safety or other problems are created (including measures to limit litter generation, through the provision of on site bins or the provision of a litter management plan);*
- iii. The proposed development would not increase the level of disturbance or nuisance to a level that would be unduly detrimental to the amenities of anyone living in the area;*
- iv. The proposals would not generate traffic movements or demand for parking that would be unduly detrimental to highway safety or residential amenities;*
- v. The proposals make adequate and satisfactory arrangements for the discharge of cooking fumes and smells;*
- vi. The proposals comply with shopping frontage policy;*
- vii. The development preserves or enhances Conservation Areas and does not adversely affect Listed Buildings or their settings where these are material considerations;*

Where proposals are acceptable, restrictions may be imposed on hours of opening in order to protect the amenity and character of the areas within which the development is located.”

Council’s Lists of Tasks from Weeks 1 and 2 of the Hearings

5.27. Item 55 Matter 11 (p5) states:

“Main Modification to Policy RT2 to remove reference to Primary and Secondary Frontages to reflect NPPF 2019 and changes to the Use Class Order and include additional wording in order to protect active centre frontages.” (highlighted and underlined text – our emphasis)



6. Design and Access Considerations

Use

- 6.1. The proposed use of the property as a hot food takeaway is a sui generis use meaning it is no longer a class of use governed by the Town and Country Planning (Use Classes) Order 1987 (as amended).

Amount

- 6.2. The extent of the application proposal is limited to utilising the existing footprint of the property. Kitchen equipment, customer service paraphernalia and a cold store will be installed inside the property. One condenser unit, one aluminium louvre grille for the fresh air intake and one extraction flue will be attached to the exterior walls of the building.
- 6.3. The only other external alterations are the new shopfronts that will be finished in RAL9005 coloured paint.

Layout

- 6.4. A customer order and waiting area at the front of the premises. Beyond which would be a kitchen and cold store, with a washing-up area, control hub (dispatch area) and staff WC at the rear.

Scale

- 6.5. No extensions to the building are proposed.

Landscaping

- 6.6. No landscaping is proposed because all development is either internal or relates to the fixing of ventilation and extraction plant and equipment to the exterior of the property.

Appearance

- 6.7. The new shopfronts will be very similar in appearance to the existing because they will retain the pilasters, the display windows' existing proportions as well as those of the fascia signage boards above such that the rhythm and proportions of the building will be respected. Locating the single condenser unit to the rear (south) at roof level is logical because is where the 2no. existing condenser units to be replaced are located.



- 6.8. For the avoidance of doubt, Papa Johns' signage will be subject to a separate application for advertisement consent should the proposed change of use be granted planning permission.

Access

- 6.9. Customer access into the proposed takeaway will be via a new entrance door on the front elevation facing Commercial Street.
- 6.10. A bell at the entrance will be installed should any customers with restricted mobility want to collect their goods, which could then be given to them at the door.
- 6.11. Notwithstanding this, it is expected that most customers of the proposed takeaway will place orders and request deliveries to their homes or other venues, which would reflect how the applicant's other stores operate within the UK. Again, in reflection of the applicant's other stores, it is anticipated that a high proportion of collections will be made after 18:00 (**Table 1 refers** - overleaf).
- 6.12. It should be noted that the application premises are located within a highly sustainable urban location which is close to many potential customers. Additionally, there are several bus stops within a short walk from the application site not least those at the nearby bus station.



7. Planning Justification

- 7.1. This section of the Statement sets out the justification for the proposed change of use when considered against the relevant planning policies and other material considerations.
- 7.2. The key issues arising from this proposal are as follows:
- Principle of development;
 - Impact on the amenity of adjoining occupiers and nearby residents;
 - Design considerations;
 - Highway safety; and,
 - Other benefits and the planning balance.
- 7.3. Each of these issues is now discussed in turn below and overleaf.

Principle of Development

- 7.4. The application site comprises a former bookmaker (formerly A2 use class, now sui generis use) that has been vacant for several months and is within the designated Brighthouse Town Centre. Given the town is designated as one of five town centres, and below only Halifax in the retail hierarchy, it is expected to accommodate a range of services and facilities as well as complementary uses. The proposed takeaway will generate linked trips to nearby shops and complement leisure uses, it will support up to 20 jobs, it is compatible with offices and other employers who tend to locate in town centres and will be accessible to the majority of its customers. Although most orders will be made over the internet or via an app on a mobile device, this reflects current retail trends and patterns where online transactions are dominant. Nevertheless, by being located inside the town centre boundary of Brighthouse where main town centre uses are directed, the principle of a takeaway in this location is in accordance with Saved Policy GS1. As the role of Brighthouse in the retail hierarchy is unchanged in the emerging Local Plan (LP), it follows that the principle of a takeaway use is also in accordance with Draft Policy RT1.
- 7.5. Although Commercial Street is located within the Primary Shopping Frontage (PSF) and Market Street lies in the Secondary Shopping Frontage (SSF) the quantitative restrictions do not apply in this case because the application site was last occupied by a non-retail use, a sui-generis bookmaker, and this is also its lawful use. Accordingly, there will be no harm to retailing in either



the PSF or SSF. It therefore follows that the proposed development is compatible with Saved Policies S6 and S7.

- 7.6. In addition, the change of use to create a hot food takeaway will be beneficial to the area because it will create an additional active frontage on two streets, activity during both the day and evening and generate linked trips with other uses in the vicinity. It therefore follows that the proposed takeaway will sustain and enhance the viability and vitality of the Primary Shopping Area whilst contribute towards enhancing the evening economy in the town and is therefore in accordance with criteria i) to iii) of Draft Policy RT2. Significantly, as reference to both the PSF and SSF are to be removed from Draft Policy RT2 in the replacement LP (**Para 5.27** refers) none of the other requirements can be given anything but limited weight in the planning balance exercise.
- 7.7. The table below provides an assessment against the Council's current hot food takeaway policy, Saved Policy S15.

Requirement	Proposed Development
<i>i. no unacceptable environmental, safety or other problems are created;</i>	The proposed kitchen and extraction system have been designed to meet Defra's minimum standards such that there will be no unacceptable environmental issues.
<i>ii. the proposed development would not increase the level of disturbance or nuisance to a level that would be unduly detrimental to the amenities enjoyed by anyone living in the area;</i>	The proposed closing times are the same as Domino's at No.76 Commercial Street directly to the north-east. Above the application site is a taxi office so there will be no undue harm to the amenities of nearby residents.
<i>iii. the proposed development would not generate traffic movements or demand for parking that would be unduly detrimental to highway safety or residential amenities;</i>	There will be no undue harm to highway safety or residential amenities because on average 60-70% of orders will be for home delivery. This will be like Domino's at No.76.
<i>iv. the proposals make adequate and satisfactory arrangements for the discharge of cooking fumes and smells;</i>	New ducting will be installed internally that will connect to the existing extraction louvre grille on the side (east) elevation.
<i>v. the proposals comply with shopping frontage policy;</i>	The examination into the emerging LP confirms that the shopping frontages will be deleted.



<i>vi. the development preserves or enhances Conservation Areas and does not adversely affect Listed Buildings or their settings, where these are material considerations; and##</i>	This is not material because the application site is neither within a Conservation Area nor does it relate to a Listed Building.
<i>vii. other relevant UDP policies are met.</i>	This statement has already demonstrated that the proposed development is in accordance with Saved Policies GS1, S6, S7 and Draft LP Policies RT1 and RT2.

- 7.8. The above demonstrates that the proposed development is in accordance with Saved UDP Policy S15. Draft Policy HW6 in the emerging LP will eventually replace the Council's current hot food takeaway policy. It is generally unchanged from Saved Policy S15 other than an additional requirement that takeaways will not be allowed within 400m of a principal entry point to a school, except within designated town centres. In this case, the application site is located inside the boundary of Brighthouse Town Centre. Therefore, for the same reasons as in the previous table, the proposed development will also be in accordance with Draft LP Policy HW6.
- 7.9. Additional in-principle support is provided by national planning policy that seeks to direct main town centre uses to existing centres to protect the vitality and viability of existing centres. Paragraph 86 of The Framework focuses on the sequential approach to town centre uses. The proposed takeaway is in accordance with this aspect of the Framework because the application site is wholly located inside the designated town centre boundary.
- 7.10. Overall, it is considered that the principle of a new hot food takeaway in this location is entirely acceptable.

Impact on the Amenity of Adjoining Occupiers and Nearby Residents

- 7.11. Saved Policy BE1 seeks to avoid significant effects on the amenity of residents and other occupants, amongst other things. Commercial Street is a busy street within the heart of the town centre with relatively high levels of traffic. The loading bay to the north-east is in operation throughout the day and night and serves numerous operators. The additional commercial uses nearby and on both sides of the street all contribute to the mixed-use nature and character in the immediate locality. Each of these established uses also generate traffic and associated service and delivery activities.
- 7.12. Nevertheless, noise associated with the proposed takeaway operation will be mainly contained to the inside of the application premises where podded silencers will be installed in conjunction with



the extraction fans to reduce noise break-out. The acoustic properties of the building envelope also mean the fans will be further insulated from noise breakout to neighbouring properties. The only external feature that generates noise is the condenser unit that will be fixed to the rear (south) and roof level.

- 7.13. The applicant's Noise Management Plan (**Appendix 2** refers) demonstrates how noise from customers, delivery vehicles and employees will be managed.
- 7.14. The proposed use is restricted to the preparation and cooking of pizza and other sundry foods, such as potato wedges, yet of these products only the pizzas will be prepared on site. The remaining products come pre-packaged and will be stored on site before being cooked. Significantly all products will be oven-cooked and therefore no deep frying will take place inside the premises. Guidance from the Department of Environment, Food and Rural Affairs¹ (Defra) identifies pizza establishments as producing a 'moderate' odour concentration and a 'moderate' grease concentration. By being designed to meet Defra's minimum standards, the proposed system will avoid harmful environmental impacts.
- 7.15. Yet a modern ventilation system is still required (and is therefore proposed) in conjunction with the proposed takeaway use to remove any cooking odours or fumes, treat them and exhaust them via an existing extraction louvre grille on the side (east) elevation of the building such that it is not near to any residential properties.
- 7.16. Two bins each with a capacity of 1,100 litres (see specification details – **Appendix 3** refers) will be stored in the service yard at the rear of Nos. 6 and 8 Market Street; one refuse bin would be for general waste and one for cardboard recycling. The short distance between the property and the yard means it will be fairly convenient for employees. **Appendix 3** explains how the bins will be robust. The fact the whole of the top of the bin is a lid means they can be easily cleaned, whilst their width and height is such that it can easily be lifted onto the back of a refuse truck for emptying, the wheels allow it to be easily manoeuvred and the fact they will be padlocked shut and the wheels can be locked means they will be secure and can be safely positioned away from parked vehicles (associated with other uses nearby) in the service yard. They will therefore not be kept in a location that would be a nuisance to neighbours and other occupiers in the vicinity.
- 7.17. In terms of opening times, the closing times of the existing premises nearby are pertinent. The opening times of Domino's to the north-east are 11:00am to **03:00am** seven days a week. As this is an established use, it demonstrates that night-time uses already successfully occur in the vicinity of the application site. The proposed closing times would therefore match the closing time of

¹ Netcen on behalf of DEFRA, January 2005, *Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems*



Domino's so would allow the applicant it to compete on an equal footing. Overall, it is considered that the proposed trading hours are unlikely to result in adverse impacts on the amenities of nearby properties.

- 7.18. Based on the above points, the applicant contends there would be no adverse impacts on the amenities of residents and other occupants nearby and on this basis, the proposed development is in accordance with Saved Policy BE1.

Design Considerations

- 7.19. In accordance with national guidance, new development should be compatible with and contribute to the distinctive character and amenity of the area in which it is located and create safe and secure environments.
- 7.20. Compliance with the design requirements of Saved Policy BE1 will be achieved because no bulky plant or equipment is proposed to the exterior of the building, one less condenser unit than existing will be fixed to the building and in the same location, and making use of an existing extraction louvre grille on the side (south) elevation will avoid visual intrusion to the character of the host building.
- 7.21. In addition, the rhythm and proportions of the shopfronts will be respected by retaining the pilasters, display window dimensions and those of the fascia signage boards.
- 7.22. Overall, it is considered that all the alterations to the exterior of the property will be appropriate to its context and therefore in accordance with Saved Policy BE1

Highway Considerations

- 7.23. In terms of service deliveries to the application site, the applicant has a centrally controlled logistics operation delivering fresh dough and other products necessary for the business needs of each store. The store delivery model across the company is based on three deliveries per week; two deliveries are from the main distribution centre, using fixed-bed ten tonne delivery vehicles and one is by the drinks supply partner, Coca Cola, utilising a 7.5 tonne non-articulated delivery vehicle.
- 7.24. Food deliveries would be made twice a week, on regular days, to maintain stock levels in the store and Coca Cola would deliver once a week. Deliveries would be accepted from the road at the front of the property; there is a loading bay to the north-east. These would be timed to occur early in the morning and on each occasion; delivery vehicles need only be present for around 20 minutes.
- 7.25. Indicative figures derived from the applicant's other outlets outside of London suggest that the proposed use will generate low traffic movements. On average, 60-70% of orders are for home delivery and the busiest time for collections is the evenings, as illustrated in **Table 1** (overleaf).



Table 1: Delivery dispatch times

	11am – 12	12 – 1pm	1pm – 6pm	6pm – 9pm	After 9pm
Day of week/ Time of Day	Morning Orders	Lunch Orders	Afternoon Orders	Peak Orders	Post 9PM Orders
Monday	0	0	5	10	0
Tuesday	0	0	4	8	1
Wednesday	0	0	3	11	2
Thursday	0	0	4	6	3
Friday	0	0	12	37	6
Saturday	0	1	14	40	4
Sunday	0	1	14	16	5

- 7.26. **Table 1** shows 149 delivered orders are between 18:00-23:00 in a week which results in 21.28 delivery orders in the evening and 4.26 delivery orders an hour. Due to an average of 1.5 orders per delivery, this creates 5.68 traffic movements (deliver vehicles going to and from the unit) an hour between 18:00-23:00 a day. This level of movement is not considered to be significant.
- 7.27. It is envisaged that the small proportion of customers that do collect their orders would park either in the street or within one of the nearby car parks, such as Parsonage Lane. As noted above, most orders would be for home delivery from the proposed unit. The application site is also accessible by public transport with bus stops nearby.
- 7.28. The proposed development therefore fully accords with the relevant national and local policies in relation to the operation of the highway network including Saved UDP Policy GT4.

Other Benefits and The Planning Balance

- 7.29. The Framework confirms the presumption in favour of sustainable development and confirms that social, economic and environmental issues must be balanced and integrated, at the same time, by the decision-taker when determining planning applications.
- 7.30. Decisions should be assessed against the Development Plan unless material considerations suggest otherwise. Therefore, development not in accordance with a Development Plan can still be acceptable.
- 7.31. The task for the decision maker, then, is to weigh the level of conformity with the Development Plan together with other material considerations.
- 7.32. The proposal is in conformity with the Development Plan. The proposal will also deliver the following significant benefits which are material considerations:



- It will provide a popular form of hot food and 'treat' meal at a reasonable price so would be accessible to a wide range of the local population;
- It will offer local people additional choice of hot food takeaway in the area;
- Temporary employment in several trades will be generated by the internal fit out works;
- Once the proposed use is in operation it will sustain approximately 20 full-time jobs;
- It will add to the vibrancy and vitality of the area by making use of an empty unit that has been vacant for several months and enhancing footfall;
- It will enable an international company, which is a robust business bringing with it a long-term presence, to operate from the application site;
- Reinstating the property to an active frontage after a period of being vacant;
- It will enhance Brighouse's reputation as a destination that encourages commercial investment by refurbishing a vacant property in a prominent location;
- It will ensure the property does not become derelict and start to create uncertainty in the street; and,
- Providing investment (between £150-200k) into the property may also increase the moral of other traders in the Town Centre which can only be a good thing for the locality.

7.33. The Framework's presumption in favour of sustainable development, the significant benefits associated with the application proposal and the conformity with the Development Plan far outweigh any perceived harm associated with the loss of a bookmaker.

7.34. In this case, the planning balance falls firmly in favour of approving the proposed development.



8. Conclusion

- 8.1. The proposed development comprises the change of use of 47 Commercial Street, Brighouse, from a bookmaker (Sui Generis Use) to a hot food takeaway (Sui Generis Use) with internal and external alterations.
- 8.2. The information provided with this application demonstrates that the proposed change of use complies fully with the Development Plan. It also demonstrates that there are no material considerations that indicate planning permission should be refused.
- 8.3. It is therefore respectfully suggested that full planning permission should be granted for the proposed development.



9. Appendices

Appendix 1 – Delegated Report for Planning Permission 06/02059/CON

Appendix 2 - Noise Management Plan

Appendix 3 – Bin Specification Details



Appendix 1 – Delegated Report for Planning Permission 06/02059/CON



<u>APPLICATION NO:</u>	06/02059/CON	<u>WARD:</u> 01 Brighouse
<u>PROPOSAL:</u>	Change of Use from A1 to A5	
<u>LOCATION:</u>	76 Commercial Street, Brighouse	
<u>APPLICANT:</u>	Retail Shops (Brighouse) Ltd c/o Agent	
<u>PARISH COUNCIL COMMENTS:</u>	N/A	
<u>REPRESENTATIONS:</u>	<u>Yes</u>	
<u>RECOMMENDATION:</u>	PERMIT	
<u>DEPARTURE:</u>	No	

Description of Site and Proposal

The development proposal site is located within the Town Centre of Brighouse on Commercial Street. The premises is a two-storey brick constructed building. The premises is primarily surrounded by A1 use class buildings. A small coffee shop that also serve snacks is located opposite and 'Greggs', a popular bakery, can be found further down Commercial Street. Brighouse Bus Station can be found immediately behind the site.

The proposal is for a change of use from an existing retail unit to a hot food take-away (A1 to A5). The majority of the work involved will be internal. An external oven extract duct will be positioned onto the rear elevation, with a diameter of 500mm and extending 1000mm above the eaves of the building. Two wall-mounted compressors will be sited at the base of the extract duct that will be used for both the Cold Room and internal Air-Conditioning system.

Relevant Planning History

An application for change of use from A1 to A2 was approved in 2004 but doesn't appear to have been undertaken (04/00237).

Key Policy Context:

UDP Designation:	Town Centre
UDP Policies:	GS1 – Retail Strategy S6 – Primary Shopping Frontage S15 – Hot Food Take-Away BE1 - General Design Criteria BE2 – Residential Amenity

BE8 – Access for All
EP1 – Protection of Air Quality
EP3 – Noise Generating Development

Publicity/ Representations

The application has been advertised with a site and notice along with neighbour notification. Objections were received from a representative from Hallmark Card Shop at 78a Commercial Street and Peter Davies on behalf of the Brighouse Road Safety Committee.

Summary of points raised

- “Already sufficient hot food take-away establishments in Brighouse”
- Concern over parking issues and their effect on other businesses
- Problems created due to the late opening times

Competition is not a consideration when assessing a planning application. The two other issues have been addressed within the bulk of the report.

Consultations

The following bodies/organisations have been consulted in respect of this application. Where comments have been received these have been taken into account as part of the assessment of the application.

Engineering Services – Network Section
Environmental Health – Pollution Section
Access Liaison Officer

Comments were also received from Projects Group regarding drainage.

Parish/Town Council Comments

N/a

Assessment of Proposal

Principle

Policy S15 of the UDP states that proposals for a hot food take-away will be permitted if they comply with certain criteria. Any A5 development must not generate traffic movements or demand for parking that would be unduly detrimental to highway safety, not increase the level of disturbance to the amenities of anyone living nearby, comply with shopping frontage policy, make

adequate arrangements for discharge of cooking fumes, and meet all other necessary UDP Policies.

Parking within a town centre location for this type of development is not necessary. This was emphasised by Engineering Services who raised no objections to the proposal. Policy S15 also requires that proposals comply with relevant shopping frontage Policy.

76 Commercial Street falls within the Primary Shopping Frontage of Brighthouse, of which Policy S6 of the Adopted Unitary Development Plan (UDP) is most relevant. The Policy seeks to ensure that development/redevelopment or change of use of ground floor premises is only approved if it is able to meet certain criteria.

The end of the Policy states that uses outside Classes A2 or A3 will not be permitted. It is evident however that the Policy was not changed to take into account the change in Use Class Order in April 2005 in which Take-Away establishments were moved out of A3 into a separate category, A5 use. Attached to the report is an extract of the Inspectors Report that states that the Policy does not preclude A2-A5 uses but tries to ensure that they do not become disproportionate in the heart of the shopping area. In this instance therefore the proposed development can be assessed against the rest of the Policy.

Change of use to this type of business will not be permitted if the development creates a continuous frontage of more than two non-class A1 uses, or exceeds 15m of continuous frontage in non-Class A1, or results in more than 15% of the total length of street frontage in any one street of any one block being non-Class A1. The proposal is able to meet this criteria and therefore acceptable development within Primary Shop Frontage.

Environmental Health Considerations

As with many developments of this kind, consultation was required with Environmental Health to ensure that the proposal does not hinder residential amenity. Policy EP1 of the UDP seeks to ensure that development causing air pollution does not harm the health, safety, and the quality and enjoyment of the environment.

As with a number of similar developments within A3 and A5 use, Environmental Health have requested that details are submitted prior to works commencing for the means of suppressing and directing smells from the premises. The service have specifically focused on the location and design of extraction vents to ensure that there is minimal impact on the immediately surrounding area. This will ensure compliance not only with EP1 but also the criteria within Policy S14 of the UDP.

The removal of waste from the site is an important and necessary daily occurrence and as such Environmental Health have requested a scheme giving details of waste removal, storage and disposal before the development begins. A condition will be in place to represent this. This will help reduce the potential impact on local residents and the environment itself.

Policy EP3 of the UDP states that development that generates noise will not be permitted if it would lead to unacceptable levels of noise to existing or proposed noise sensitive land uses nearby.

Environmental Health have requested that details of the fans in terms of location and sound power level or sound pressure at a given distance be submitted for written approval to ensure that there are no unacceptable high levels of noise escaping from the building. A restriction will be placed on the opening times to ensure compliance with BE2, residential amenity.

Access for All

Policy BE8 of the UDP states that development proposals within buildings or sites that provide goods, facilities or services to the public should incorporate design features that facilitate easy access for all, including those with disabilities.

Consultation with the access liaison officer confirmed that the proposal will require an approval under the Building Regulations, showing full compliance with Approved Documents M&B and the DDA (Disability Discrimination Act).

CONCLUSION

The proposal is considered to be acceptable subject to the conditions specified below. The recommendation to grant planning permission has been made having regard to the policies and proposals in the Calderdale Unitary Development Plan set out in the 'Key Policy Context' section above, and there are no material considerations to outweigh the presumption in favour of such development.

Chief Officer: Duncan Hartley
Head of Regeneration and Planning

Date: 12th December 2006

Further Information

Should you have any queries in respect of this application report, please contact in the first instance:-

Sam Dewar (Case Officer) on Tel No: 39 2229

or

Paul Akroyd (Senior Officer) on Tel No: 39 2229

Appendix 2 – Noise Management Plan





Better Ingredients.
Better Pizza.

Noise Management Plan

Our systems for noise management provide for the following provisions:

- The doors to the premises are fitted on sprung hinges which incorporate a soft close mechanism. Consequently, the door doesn't slam when customers leave the premises.
- A3 sized posters with the company's logo are posted in plain view of customers with the words "This is a residential area. Please be considerate to our neighbours by leaving the premises quietly."
- Papa John's train their staff to courteously remind customers to leave the premises quietly and in an orderly manner.

In terms of noise generated from deliveries the following strategies are employed:

- All drivers are trained using a DVD that the Papa John's training team has developed, this advises of the need for compliance with road safety and noise management
- There are laminated screen surrounds positioned on driver despatch screens. These are a training tool and reiterate key points about customer service, road and vehicle safety and noise management
- Car horns are not be used inappropriately
- Drivers will not slam doors
- Drivers will not loiter or socialise outside the unit
- Delivery vehicles used will be road worthy, in good working order and their condition monitored on a daily basis as part of the manager's checklist
- Dates for vehicle servicing and MOT's are logged in the electronic point of sale systems installed in the units to ensure all delivery vehicles are maintained in good working order

Appendix 3 - Bin Specification Details



1100 ltr Wheelie Bin Specification Sheet

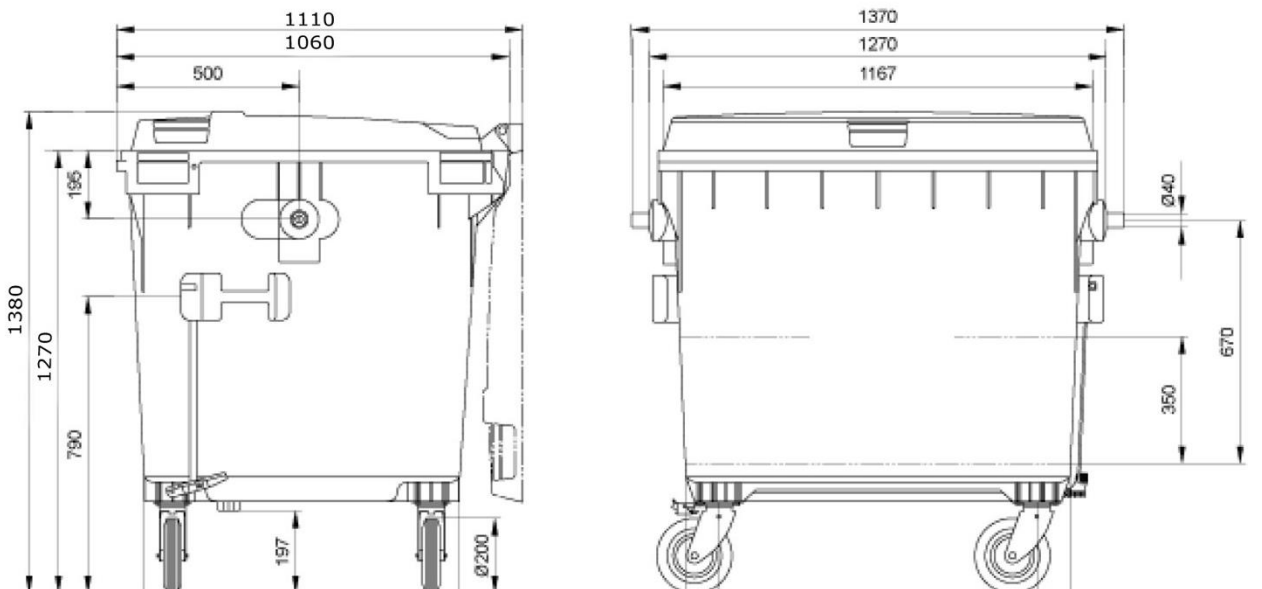
Features

- Manufactured and tested to EN840 - DIN30700. (EN840 is the Europe wide standard for emptying interoperability and handling safety).
- Extra strength comb lift bar.
- Made from HDPE (High –density Polyethylene) for extra strength and life.
- Full thickness “flat body” design (Some other bins, with “fluted bodies” that are much thinner, won’t last as long).
- Maximum strength additives for resistance to UV, cold, heat and chemicals. (No corners cut).
- High strength Trunnions (Din Lifting Side Lugs) supplied as standard.
- Certified compliant with EU the noise protection Directive.
- 100% recyclable at end of life.



Specifications

- Weights:- Rated maximum load 450kg. Dead weight 58kg
- Dimensions:-



- **Standard Colours:-**
Other colours are available for orders of 100+ units

Antracite Grey R7016

Reseda Green R6011

Traffic Red R3020

Sky Blue R5015

Zinc Yellow R1018