

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan; the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Office of the Chief Executive in the Civic Centre or via the internet at www.sunderland.gov.uk/online-applications/

Janet Johnson
Deputy Chief Executive

Reference No.: 14/00287/FUL Full Application**Proposal:** **Change of use of ground floor from newsagents to hot food takeaway and installation of extraction flue to rear (amended description 26/02/2014).****Location:** 91 Newcastle Road Sunderland SR5 1JB**Ward:** Southwick**Applicant:** Mr Hamid Katabi**Date Valid:** 6 February 2014**Target Date:** 3 April 2014

PROPOSAL:

Planning permission is sought for the change of use of the ground floor from newsagents to hot-food takeaway and installation of extraction flue to the rear of 91 Newcastle Road, Monkwearmouth, Sunderland, SR5 1JB.

The proposed development affects a two-storey property fronting the west side of the busy A1018 Newcastle Road, just to the south of its traffic light-controlled junction with Crozier Street. The property stands in the centre of a short parade of three properties set behind a deep paved forecourt, which feature commercial uses at ground floor level and residential accommodation above.

The host property is currently occupied by a newsagents' at ground floor level, whilst the adjoining 89/89A to the south features a tanning salon at ground floor. To the north side, the ground floor unit of the adjoining no. 93/95 is currently vacant, with the remaining signage suggesting it was last occupied by a hair and beauty salon. The rear of the property features a range of extensions and offshoots projecting into the rear yard, at the end of which is the lane serving the rear of this section of Newcastle Road and the adjacent Warwick Street.

The locality features a mix of uses, with other commercial units on the north side of the junction with Crozier Street, including an existing hot-food takeaway at no. 8/10 Crozier Street. Opposite the application site, on the east side of Newcastle Road, is a vehicle sales showroom and the car park of the Stadium of Light Tyne and Wear Metro station, whilst to its south, beyond the adjoining no. 89/89A, is a terrace of residential dwellings. Warwick Street, to the rear of the application premises, is also residential in nature.

The application proposes to change the use of the ground floor of the premises from a newsagents (use class A1 (retail) of the Town and Country Planning (Use Classes) Order 1987 (as amended)) to a hot food takeaway (use class A5 of the Order). The main body of the building will provide a collection area/serving counter and food preparation facilities, whilst the rear offshoot will provide storage. The takeaway is proposed to open between 16:00 and 21:00 daily, with a total of 8 no. staff (2 no. full-time and 6 no. part-time) intended to be employed by the business. A delivery service will be offered.

The proposed extraction flue will run up the rear wall of the building, between the two first floor windows, and terminate above the eaves level of the roof.

A planning application of this nature would normally be determined under the powers afforded to Officers under the Council's scheme of delegation; however, it has been referred to the Development Control Sub-Committee (North area) at the request of Councillor Copeland.

TYPE OF PUBLICITY:

Neighbour Notifications

CONSULTEES:

Network Management
Southwick - Ward Councillor Consultation
Environmental Health
Southwick - Ward Councillor Consultation
Environmental Health
Southwick - Ward Councillor Consultation
Environmental Health

Final Date for Receipt of Representations: **20.03.2014**

REPRESENTATIONS:

To date, a total of 13 no. representations have been received in response to public consultation, 11 no. in objection to the application and 2 no. in support of the application. Letters of objection have been received from the occupiers of nos. 77, 85 and 87 Newcastle Road, nos. 1 (two letters received), 2, 3, 4, 5 and 39 Netherburn Road, and one letter provided without an address for correspondence.

The main issues raised by the letters of objection are as follows:

- the proposed change of use will increase vehicle movements in an area which already experiences significant traffic flow and parking problems;
- Crozier Street, Warwick Street, Devonshire Street and Eglington Street are already heavily parked by users of the Metro station and visitors to the car showroom on Newcastle Road and other local shops;
- there is already double-parking on nearby residential streets and cars block residential accesses and cause obstructions to pedestrians and other vehicles;
- the proposed takeaway would cause further congestion and potentially lead to more traffic accidents (of which, the objectors suggest, there have been a number in recent years);
- customers visiting the existing takeaway at 8/10 Crozier Street already cause traffic flow problems during peak hours;
- the application premises do not benefit from any car parking, so staff and delivery drivers will be required to park on the street, exacerbating existing parking problems;

- the applicant may be allowed to open the takeaway later than is currently suggested once the business is established;
- the takeaway will give rise to additional disturbance associated, e.g. from additional vehicle movements, customers waiting outside, groups of youths, in comparison to the existing retail use;
- the proposed use will lead to an increase in litter in the area;
- the proposed use will generate unpleasant smells and odours, notwithstanding the proposed ventilation/extraction system;
- there have been a number of refusals of planning permission for hot-food takeaways at nearby units, including 5 Crozier Street in 1992 and 1999, 11 Crozier Street in 2010 (application reference 10/02438/FUL), 93 Newcastle Road in 1988 and 97 Newcastle Road in 1981, for reasons pertaining to harm to residential amenity and the creation of conditions prejudicial to road safety;
- the opening of another hot-food takeaway would not be in the best interests of the health and well-being of the local community, especially given the Council's commitment to tackling health inequalities in the City;
- there are already enough hot-food takeaways in the area;
- local residents put up with enough noise and smells already;
- the proposed use may lead to an increase in vermin in the area;

A letter of objection has also been received from Ward Councillor Copeland, which raises concerns on grounds of lack of parking, smells close to housing and noise and litter generation.

It should be noted that the suggestion that the proposed use of the building will lead to an increase in litter or attract vermin is not an issue which should influence the determination of a planning application - the generation of litter will not occur if patrons and staff of the takeaway dispose of waste appropriately and in cases where litter becomes a serious problem, other agencies (e.g. Environmental Health or the police) can take appropriate action.

In addition, it is recognised that the Council has determined to refuse planning permission for hot food takeaway proposals at other premises in the locality, most recently in 2010 at 11 Crozier Street (app. ref. 10/02438/FUL). However, these previous decisions relate to other properties set within varying contexts, whilst some decisions date from over 30 years ago. Members are reminded that each application and proposal must be considered on its own merits, having regard to the specific context of the application site, the most up-to-date local and national planning policy and all other relevant material planning considerations. As such, these previous refusals do not infer that planning permission should automatically be withheld for the current proposals.

Other matters raised by objectors and the petition are material to the consideration of this application and will be assessed more closely in the following section of this report.

Two letters of support have been received, from the occupiers of 23 Netherburn Road and 21 Crozier Street. The representation from 23 Netherburn Road considers that the takeaway will be advantageous to the area and will help create jobs. It is also suggested that one more food outlet, added to the two already in the area (Crozier Street fish and chip shop and the sandwich shop), will not cause any extra problems. The representation from 21 Crozier Street, meanwhile, argues that the proposed change of use will create new jobs.

The period in which representations can be submitted to the Council does not expire until 20th March 2014. Details of any further representations received ahead of the Committee meeting on 25th March will be reported in a Supplement to this report.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

EN_10_Proposals for unallocated sites to be compatible with the neighbourhood
B_2_Scale, massing layout and setting of new developments

S_3_Support to other existing centres, local groups and small shops, including new provision

S_12_Criteria for hot food take-aways, restaurants, other A3 uses and amusement centres

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

RELEVANT POLICY BACKGROUND

The National Planning Policy Framework (NPPF) provides the current Government's national planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity; should proactively drive and support sustainable economic development and should encourage the effective re-use of land and property.

The relevant guidance of the NPPF detailed above feeds into policies EN10, B2, S3, S12 and T14 of the City Council's adopted Unitary Development Plan (1998), which are consequently considered to be pertinent to the determination of this application.

Policy EN10 of the UDP requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use allocation.

Policy S3 of the UDP seeks to retain existing shopping centres, local groups and small shops, but where individual units become of doubtful viability, consideration will be given to the conversion of units to non-retail uses, including those falling into the former use class A3 (food and drink uses), providing that an acceptable level of everyday shopping remains and the proposed use will not conflict with the established uses in the neighbourhood or other relevant UDP policies. It should be noted at this point that the Town and Country Planning (Use Classes) Order was amended in 2006 and the former use class A3, which incorporated all food and drink related uses, was replaced by a new use class A3 (restaurants,

snack bars and cafes), use class A4 (pubs and bars) and use class A5 (hot food takeaways).

Policy S12 states that hot-food takeaways are generally acceptable if they are located within an existing town or local centre but proposals must not have a detrimental impact on the environment, residential amenity and public or highway safety. The requirements of policy S12 are expanded upon in section 9 of Supplementary Planning Guidance (SPG) to the UDP, which states that applications for A5 uses must be set against the need to protect the amenities of residential properties from noise and disturbance associated with food preparation and vehicle and pedestrian movement. Hot-food takeaway proposals for units set within smaller retail parades will not normally be considered acceptable where there are residential dwellings within 50 metres and applications for hot food takeaways which are likely to lead to car parking on residential roads in evening periods and which would be likely to cause nuisance to nearby residents should not normally be permitted.

Also relevant are policies B2, which requires new development proposals to maintain an acceptable standard of visual and residential amenity, and T14, which states that new development must not result in conditions which are prejudicial to highway and pedestrian safety.

ISSUES TO CONSIDER

With regard to the above national and local policy framework, it is considered that the main issues to consider in the determination of this application are as follows:

1. principle of proposed development;
2. impact of development on visual amenity;
3. impact of development on residential amenity;
4. impact of development on highway and pedestrian safety

1. Principle of development

The application premises and the area surrounding the junction of Newcastle Road and Crozier Street is not allocated for a specific land use on the proposals map of the UDP. There are, however, a range of existing retail units and a hot-food takeaway in the immediate vicinity of the junction between the two roads, so that the area acts as a small, local commercial centre providing facilities and amenities for residents of nearby streets. The introduction of a takeaway in this context and within an existing commercial unit is not considered to be at odds with the prevailing character of the locality, and the proposal therefore broadly accords with the requirements of policies EN10 and S12 of the UDP in this regard.

With regard to the requirements of policy S3, it is considered that the conversion of the property to a non-retail use is generally acceptable given that everyday shopping facilities and other commercial outlets will remain at the Newcastle Road/Crozier Street junction. There are also further facilities to be found nearby, including the recently-built Tesco supermarket at the Sunderland Retail Park (approximately 200 metres to the south of the application site).

However, in line with the requirements of both policies S3, S12 and Section 9 of the SPG, an assessment of the impact of the proposed use on the amenity of

nearby residential dwellings (many of which are within 50 metres of the application site) and highway and pedestrian safety is necessary in order fully consider the merits of the proposal. Such an assessment is provided below.

2. Impact of development on visual amenity

The only physical alteration to the premises proposed in association with this application is the erection of the extraction flue to the rear of the property. The flue will be viewed within the streetscene of the rear lane, which, given the range of offshoots and extensions to the rear of the properties fronting Newcastle Road, has a rather untidy and irregular appearance. Within such a context, it is considered that whilst the flue would be visible from the lane and Crozier Street, it would not appear as unduly obtrusive or harmful to the visual amenity of the locality, in accordance with the requirements of policy B2 of the UDP.

3. Impact of development on residential amenity

Although the principle of the proposed change of use is considered to be broadly acceptable as this site, policies S3 and S12 of the UDP and section 9 of the SPG require the impact of the use on the amenity of nearby residential properties to be considered. In this respect, the property features a residential flat at first floor level, whilst there are dwellings fronting Newcastle Road just beyond the adjoining commercial premises of no. 89/89A. To the rear of the property, beyond the back lane, are the residential dwellings of Warwick Street and there are also many other residential properties within 50 metres of the application premises, mostly to the rear and north-west.

The amenity of residential properties can be detrimentally affected by a hot food takeaway due to the noise, disturbance and smells/odours which such a use may generate. In this instance, it is also necessary to assess the impact of the proposed extraction flue, which is proposed to run vertically up the rear wall of the building, on the amenity of the upper floor flat. Each matter is considered in turn below.

Smells/odours

The application includes the installation of an extraction system and a flue to the rear, which will terminate above the eaves level of the property and will undoubtedly serve to limit the smells and odours emitted from the premises. Indeed, it is the City Council's experience that in determining appeals against the refusal of hot-food takeaways, Planning Inspectors generally accept that modern extraction and ventilation systems are able to mitigate smells and odours to the extent that residential amenity is not unduly impinged upon (e.g. see appeal decisions for 159 Hylton Road (app. ref. 09/04325/FUL), 53 Revelstoke Road (app. ref. 12/01445/FUL) and 41-43 Eden House Road (app. ref. 12/00945/FUL)). Furthermore, the City Council's Environmental Health section has offered no objection to the proposed arrangement.

The concerns of objectors in relation to the generation of smells and odours have been noted, but, and having had regard to the aforementioned appeal decisions and the comments of the Council's Environmental Health section, it is considered that modern extraction and ventilation systems are capable of mitigating this matter to the extent that the issue does not result in significant detriment to residential amenity.

Noise

Noise from a takeaway use can be generated by the machinery and equipment associated with the cooking of food, including, for example, the fan of an extraction system and the banging of pans and other kitchen items. The applicant has not submitted any specifications of the proposed extraction system, but such systems can be fitted with silencers or the fan programmed to a less noisy setting if necessary. It is considered that, in the event Members were minded to approve the application, a condition could be imposed to require that the final specifications of the extraction are submitted to the Council for consideration. The noise from food preparation, meanwhile, is not, on its own, expected to cause any undue harm to residential amenity.

Disturbance

The disturbance associated with a hot-food takeaway is generated by the activities surrounding the use, such as the noise of customers' conversation inside and outside the unit, the noise from the engines of customers' vehicles parked on streets around the property and the slamming of doors of the building and customers' vehicles. In this case, there would also be the trips to and from the premises carried out by delivery vehicles.

The proposed closing time of 21:00 will mean that the nearest residential properties, namely the first floor flat and the adjacent dwellings fronting Newcastle Road, will, in particular, experience disturbance from customers chatting inside and outside the unit into the evening period, the time of day when occupiers can reasonably expect to enjoy peace and quiet, particularly during the working week.

As noted earlier in this report, the subject unit is situated adjacent to the traffic light-controlled junction of Newcastle Road and Crozier Street. The parking and waiting restrictions associated with the traffic lights preclude vehicles stopping directly in front of the premises and so car-borne customers, staff and delivery vehicle drivers will likely park on the adjacent Crozier Street and the wholly-residential side-streets of Warwick Street and Netherburn Road. Residents of properties in these streets closest to the application premises will be subjected to noise and disturbance generated by the comings and goings of vehicles which, as noted above, would occur relatively late into the evening.

It is also recognised that the existing, long-established fish and chips takeaway at 8/10 Crozier Street already generates a significant amount of activity of the kind which would be generated by the proposed takeaway. The objections to the proposal suggest that this existing takeaway already gives rise to amenity concerns, especially in terms of contributing to parking on the residential streets, and the presence of an additional takeaway would only exacerbate the existing situation.

With regard to the above comments, it is considered that given the quality and effectiveness of modern extraction systems the proposed use of the unit as a hot food takeaway is unlikely to cause undue harm to the amenity of surrounding residential dwellings by virtue of the generation of unpleasant smells and odours. Nor would the proposed use result in the creation of unacceptable levels of noise.

However, it is considered that the proposed use of the unit as a hot food takeaway raises some concern in relation to the amenity of adjoining, immediately adjacent and surrounding dwellings, particularly in respect of the disturbance generated by visitors to the premises, both on foot and in vehicles, late in the evening. Disturbance would be caused by the conversation of customers inside and outside the premises, the banging of car doors and the revving of the car engines of visiting customers and delivery vehicles. This disturbance would be greater than that generated by the current retail use and would add to the levels of noise and disturbance experienced by surrounding residents as a result of the presence of the existing hot food takeaway on Crozier Street. The noise and disturbance generated by the proposed takeaway would also occur into the late evening, when residents can reasonably expect peace and quiet.

As such, the proposed change of use of the unit is considered to cause conflict with the requirements of the core planning principles of the NPPF, the requirements of aforementioned policy S12 of the Council's adopted Unitary Development Plan and section 9 of the 'Development Control Guidelines' Supplementary Planning Guidance.

4. Impact of development on highway and pedestrian safety

A consultation response is still awaited from the Council's Network Management team in relation to the parking and highway and pedestrian safety implications of the proposed development. It is anticipated that a response will be received ahead of the Committee meeting and details of the response will accordingly be provided on a Supplement to this report.

CONCLUSIONS

With regard to the above comments, it is considered that the broad principle of a hot-food takeaway in the subject unit is acceptable in terms of its location within a local commercial centre, whilst the proposal raise no concerns in relation to visual amenity.

However, the proposed use of the unit as a hot food takeaway raises concern in relation to the amenity of adjoining and neighbouring residential dwellings due to the disturbance generated by visitors to the premises, both on foot and in vehicles, late into the evening. There is consequently considered to be some conflict with the requirements of the core principles of the NPPF, policy S12 of the Council's adopted Unitary Development Plan and section 9 of the 'Development Control Guidelines' Supplementary Planning Guidance.

Consultation comments are, however, awaited from the Council's Network Management team in relation to the parking and highway and pedestrian safety implications of the proposed development. It is anticipated that consideration of these matters will be completed shortly and details of the consultation response will be reported on a Supplementary Report, together with details of any further public representations received in response to public consultation. The Supplementary report will also provide a recommended decision.

RECOMMENDATION: Deputy Chief Executive to Report