

## **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 (General Development Procedure) Order 1995.

## **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 Development and Regeneration Directorate Services in the Civic Centre.

Philip J. Barrett

Director of Development and Regeneration Services.

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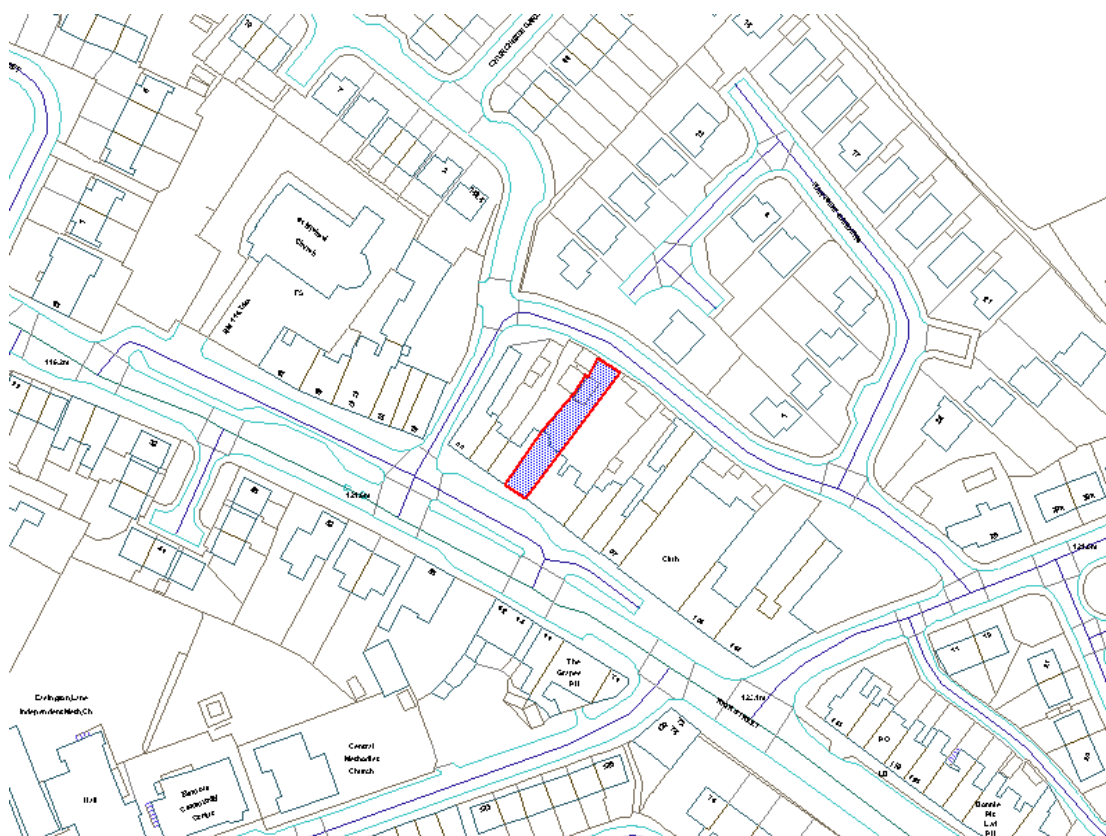
**Reference No.:** 08/03391/FUL Full Application

**Proposal:** Change of use of existing terraced house to ground floor cafe/hot food takeaway with self-contained residential flat at first floor level and installation of shop front.

**Location:** 89 High Street Easington Lane Houghton Le Spring DH5 0JR

**Ward:** Hetton  
**Applicant:** Mr Tajinder Singh  
**Date Valid:** 12 September 2008  
**Target Date:** 7 November 2008

## Location Plan



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## PROPOSAL:

The application relates to the change of use of 89 High Street, Easington Lane, from a terraced house (Use Class C3) to a ground floor cafe/hot food takeaway(fish and chips) within Use Class A5 together with self-contained residential flat at first floor level. The application also included the installation of a new shop front.

The property is a two-storey south facing terraced dwelling, comprising of lounge, dining room, kitchen, three bedrooms and a bathroom. There is an existing yard to the rear. A double garage is sited at the rear of the curtilage with dormers and a raised sun deck, which face onto the main building. This was granted approval on 6th March 1984 (App. No. 84/0055). The property had previously been in commercial use. An application was granted consent to change the property from a commercial premises to a house on 24th January 1977 (App. No 76/1498).

The ground floor will comprise of the takeaway/café premises and will provide a kitchen and preparation area, WC, café area with sit down facilities and serving counter. There will be two separate access doors to the front of the property, one accessing the café/takeaway and one leading to the upstairs flat. The flat will provide two bedrooms, a bathroom, kitchen and lounge/dining room.

The new shop front will involve the removal of the existing ground floor front windows and installation of two large windows with a glass door in between.

The site is situated on the main A182 road through Easington Lane. Easington Lane is identified as a local shopping centre within figure 6.2 of the Unitary Development Plan (1998). This specific section of Easington Lane High Street comprises of a number of residential and commercial uses. The property is adjoined by a hairdressers to the north west and to the south east by a residential property (No. 91). Other nearby properties are in use as a florists, bakers, Working Men's Club, car parts shop, dentists, bookmakers and pharmacy. There are also several existing hot food takeaways nearby including 68, 70 and 125 High Street.

There have been a number of applications for hot food takeaways on High Street. This includes:

62-64 High Street - Change of use from builder's merchants to restaurant and takeaway with erection of single storey pitched roof extension to rear. The application was approved on 4th September 2003 (App No. 03/01548/FUL).

83 High Street - Change of use to hot food take away (Pizza Parlour). The application was refused on 1st October 1997 (App. No. 97/01132/FUL).

115 High Street - Change of use to a hot food takeaway. The application was refused on 26th March 1998 (App. No. 98/0117/FUL).

125 High Street - Change of use of ground floor to a hot food takeaway. The application was refused on 16th November 2005 (App. No. 05/03087/FUL),

125 High Street - Change of use to hot food takeaway and installation of extractor equipment to the rear. The application was refused on 19th January 2007 (App. No. 06/04790/FUL). The application was subsequently allowed at appeal by the Planning Inspectorate on 10th August 2007.

127 High Street - Change of use from furniture shop to hot food takeaway. The application was approved on 18th April 2000 (App. No. 00/00392/FUL).

133 High Street - Change of use to hot food takeaway. The application was approved on 30th October 1998 (App. No. 98/01137/FUL).

Details have not been provided with regards to the means of ventilation and extraction. However, the applicant has stated that he intends to comply with the Council's specified standards and install high quality extraction equipment.

New signage will also be provided, which would need to be the subject of a separate application for advertisement consent should Members grant planning permission. .

The applicant has stated within the additional information received on 7th October 2008 that the café/takeaway will not open Sundays and will not be open after 9pm. Furthermore, the café/takeaway will not take orders for deliveries.

This application would normally be dealt with under delegated powers, however, the application has been referred to the Development Control (Hetton Houghton and Washington Area) Sub Committee on the written request of a ward Councillor.

#### **TYPE OF PUBLICITY:**

Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Director Of Community And Cultural Services  
Hetton Town Council

Final Date for Receipt of Representations: **07.10.2008**

#### **REPRESENTATIONS:**

There have been seven neighbour objections. These are from the occupiers of 22, 85, 91 and 93, High Street as well as 7 Hartside Gardens, 32 Churchside Gardens and 38 Murton Lane.

The main concerns raised relate to:

Rubbish and vermin  
Odour  
Reduced viability of bakeries at 66 High Street  
Residential Amenity  
Noise  
High concentration of takeaways already  
Parking issues

Increased traffic congestion  
Anti-social behaviour

Other Consultations

Responses are awaited from Hetton Town Council and the Environmental Health Section.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

T\_22\_Parking standards in new developments

S\_12\_Criteria for hot food take-aways, restaurants, other A3 uses and amusement centres

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood

EN\_5\_Protecting sensitive areas from new noise/vibration generating developments

S\_11\_Restriction of non retail uses in parts of the city centre and Washington town centre

## **COMMENTS:**

The key issues to consider in relation to this application are:

1. The principle of use
2. Impact on residential amenity
3. Highway and access issues
4. Environmental Health
5. Other issues

1. The principle of the use

There are no relevant site specific policies in this case, however, policy EN10 of the UDP is applicable. This policy states that where the UDP does not set out proposals for change, the existing pattern of land use is intended to remain. Furthermore proposals will also need to be compatible with the principal use of the neighbourhood.

Policies S11 and S12 of the UDP as well as Chapter 9.1 of the Supplementary Planning Guidance (SPG) Development Control Guidelines (2000) are of particular relevance in this case. In summary the policy and guidance states that proposals for hot food takeaways set within local centres will normally be granted planning permission provided they are acceptable in terms of residential amenity and highway safety.

It is acknowledged that the site is set within a local centre, and in principle is acceptable.

The use of the property as a residential flat at first floor level is considered to be acceptable in terms of land use as the property is currently in operation for residential purposes and there are a number of flats above other commercial units within the street scene.

In conclusion the principle of the proposed use in the High Street would be acceptable, providing considerations such as residential amenity and highway safety are satisfactory.

## 2. Residential Amenity

### Concentration of residential properties

Paragraph 9.1a (ii) of the SPG states that in shopping parades of less than 10 units applications for A3 (now A5) uses situated in a predominately residential area will not normally be permitted where the principle elevation of the nearest dwelling house or block of flats is less than 50m away, in the interests of residential amenity. Whilst the proposal can be considered to be situated within a local shopping centre, there are a total of eleven properties in the block in which the application site is situated (numbers 83-109), of which nine are in commercial use, and as such the above guidance is relevant. In this case there are a total of fifteen residential properties within a 50m radius, including 91 High Street, which sits directly adjacent to the application site. As a consequence the proposal has the potential to cause serious undue harm. Reasons are set out within the following sections. As such, the development conflicts with paragraph 9.1a (ii) of the SPG.

### Odours

Despite the applicant stating that he will utilise high quality extraction equipment, it is not considered that odour emissions can be eliminated to a level that will provide satisfactory living conditions for the residents of 91 High Street.

It should be noted that an appeal was dismissed by the Planning Inspectorate for the change of use from a post office to hot food takeaway at 31 Station Road, Penshaw on 26th September 2005 (App No. 04/02318/FUL). Here the unit was also surrounded by residential properties. Whilst the appellant again stated that he intended to install high quality extraction equipment, the Inspector commented that no matter how good the equipment, unpleasant smells could escape, particularly when the shop door was open. These fumes could cause annoyance to residents of dwellings that are very close to the appeal property. As such it is considered that whilst the applicant of this current case may have intentions of installing high quality equipment, in practice the complete elimination of smells may be impossible. Environmental Health's comments on this matter are awaited at the time this report was written.

### Noise

Furthermore, whilst equipment can be used to eliminate some noise from machinery/frying range, as the range is located against the party wall it is likely that noise and vibration would be transmitted to the adjacent dwelling. In addition, it is highly likely that conversational noise generated from customers and staff alike as well as those coming to and from the premises would be likely to be significantly increased, affecting the residents of the adjacent property.

In addition, whilst the applicant has stated that the takeaway will close at 9pm and will not open at all on Sundays, it is considered that residents should be entitled to satisfactory levels of residential amenity at all times and on all days.

In summary the proposal is considered to be likely to be unacceptable in terms of residential amenity on grounds of noise, smell and odour due to the immediate proximity of residential properties, although at the time this report was produced Environmental Health's comments on this issue had not been received. Subject to those comments the development may fail to meet the requirements of policies B2, EN5, S11 and S12 of the UDP as well as Chapter 9 of the SPG.

### 3. Highways and Access Issues

The site has the benefits of having a parking lay-by to the front which will be able to accommodate short term parking generated by the takeaway. Furthermore, the first floor residential flat will have in-curtilage parking provision given that there is a double garage to the rear.

A traffic scheme is shortly to be implemented for no waiting at any time on the access road between 79 and 83 High Street, and a one way scheme will also be introduced on the same access road. This will have implications for servicing vehicles wishing to access the rear of the premises. However, it is not considered to be a reason for refusal given that much of the servicing can be undertaken from the front of the premises.

Consequently, the development is not considered to be detrimental in terms of vehicular or pedestrian safety and complies with policies T14 and T22 of the UDP.

### 4. Environmental Health Issues

At the time this report was produced Environmental Health's comments were still awaited. However, they are expected to be ready to enable a Supplementary report to be produced.

### 5. Other issues raised by objectors

Odour, residential amenity noise, parking issues and traffic congestion have already been considered in previous sections of this report. Other matters raised by objectors are detailed below.

Rubbish and vermin are not considered to be a reason for refusing a planning application given that conditions can be applied to any consent issued to ensure that refuse is handled in a careful and responsible manner so as not to create conditions detrimental to public health.

Competition with other commercial properties is not a material consideration in determining planning applications and as such the potential adverse impact on any other nearby business cannot be taken into account.

Similarly the number of existing similar outlets nearby is not a material consideration; it should be left to market conditions to determine the number of such outlets.

Anti-social behaviour is a matter for the police and is not likely to be increased by the addition of a new takeaway in comparison to the existing evening uses including the Working Men's club, restaurant and other nearby takeaways.

## CONCLUSION

Comments are still awaited from the Environmental Health section as well as Hetton Town Council and is anticipated that these will be received in time to be included, with a recommendation, on the Supplement.

**RECOMMENDATION: Dir.of Dev. and Regeneration to Report**



