

DELEGATED

AGENDA NO.

REPORT TO PLANNING COMMITTEE

DATE: 19 April 2006

REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

06/0375/ARC

HIDE CAFÉ BAR, 32 HIGH STREET, YARM

APPLICATION TO MODIFY CONDITION 3 OF PLANNING APPROVAL 00/1380/P TO READ 'THE USE HEREBY PERMITTED SHALL NOT BE OPEN TO CUSTOMERS OUTSIDE THE FOLLOWING TIMES 08:30 TO 00:30 HOURS ON ANY DAY. THE PREMISES SHALL BE VACATED NOT LATER THAN ONE HOUR AFTER THE CLOSURE OF THE PREMISES TO CUSTOMERS.'

EXPIRED 6 APRIL 2006

SUMMARY

This application seeks permission for the extension of the approved opening hours for the café/bar from 08.30am to 12.30am and for the premises to be vacated by 01.30am.

Hide bar is located within Yarm centre, set back off the High Street within a small development of shops and services at Fairfax Court. To the rear of the premises are car parks, beyond which lie residential properties on Castle Dyke, Mill, and Atlas Wynds.

On letter of objection has been received from agents acting on behalf of 10 Residents of Atlas and Castle Dyke Wynd. Yarm Town Council objects to the proposed application on a basis of increased late night noise and inconvenience to adjacent residents.

It is considered that taking into account the nature of the area, the proposed extension of time and the likely impacts on the surrounding area, the proposed variation of hours could prove acceptable

RECOMMENDATION

Recommended that Planning application 06/0375/ARC be approved, subject to conditions attached to the original planning permission (00/1380/P) in respect of approved documents, car parking spaces, restriction of live entertainment and amplified music, and odour control: and the following conditions in respect of temporary consent, amended opening hours and an operational management plan:

1. The use hereby permitted shall be for a period of 18 months from the date of this permission hereof.

Reason: In the interests of the amenity of the surrounding properties and to prevent any undue impact on the amenity of surrounding properties being allowed in perpetuity.

2. The use hereby permitted shall not be open to visiting members of the public outside the following times: 08:00 to 00:30 hours. The premises shall be vacated by staff by 01:30 hours.

Reason: In the interests of the amenity of surrounding properties

3. No development shall commence until a management plan relating to the operation of the external areas of the premises, including bin area, rear access and exit doors and shall specify that the management will operate whilst ever the premises is open for business after 23:00 hours has been submitted and approved by the Local Planning Authority and the approved scheme has been brought into operation. The approved scheme shall operate for the life of this consent

Reason: In the interests of the amenity of surrounding properties.

BACKGROUND

The original planning consent relating to the operation of the Café / Bar stated that the hours of use of the premises be restricted to between 08:00 and 23:00 hours. Planning permission for a variation of this condition to allow extended opening until 01:00 hours and separately to 02:00 hours were refused by Planning Committee.

A subsequent appeal against the refusal of 02:00 was dismissed (even though the appellant indicated they would be happy with the appeal being dealt with on the basis that hours be amended to 01:00 with the premises vacated by 01:30 hours).

The Planning Inspectorate considered the main issue in the appeal to be effect of the proposal on the living conditions of nearby residents in Castle Dyke Wynd and Mill Wynd in terms of noise and general disturbance, with the Planning Inspectorate agreeing with the Local Planning Authority that later opening hours suggested would, "materially harm the living conditions of nearby residents in Castle Dyke Wynd and Mill Wynd". The Inspector's conclusion was that the proposed extension of opening hours would be likely to materially harm the living conditions of nearby residents in Castle Dyke Wynd and Mill Wynd through noise and general disturbance.

PROPOSAL

Permission is now sought for the extension of opening hours until 00:30, 7 days a week for members of the public with the allowance of one hour vacating time for staff (01.30)

CONSULTATIONS

Neighbour consultation

One letter of objection has been received from Planning Potential acting as agents acting on behalf of the residents of:

- 8, 10, 26, 29 Atlas Wynd

- 10, 11, 20, 21, 28 Castle Dyke Wynd

Whilst also submitting two letters of objection relating to previous applications, the current grounds of objection are summarised below.

- Unacceptable location
- No justification particularly in the light of previous refusals
- Later hours would result in noise disturbance to local residents as customers leave, and later into night as staff clean and leave the premises
- Sleep patterns would be seriously disturbed as a result of car engines starting, doors being slammed, people talking/shouting, rubbish being collected, bottles being disposed of etc
- An unacceptable situation would be exacerbated
- This area is not suitable for later operations given the level of residential accommodation
- The Council's environmental team have previously raised concerns over customer activity patterns and poor acoustic properties of the building
- Yarm is already considered a no-go area by many locals at night, especially during summer evenings and weekend evenings all year round
- Later opening hours would result in significant harm to the amenities of local residents, and an already unacceptable situation made even worse.

Environmental Health Unit

I have no objection in principle to the development however, I do have concerns regarding the following environmental issues and would recommend the condition as detailed to be imposed on the development should it be approved.

The existing flat roof light over the central public area should be improved and replaced with 4-12-4mm double glazing, or heavier, fitted solid well-sealed non opening frames.

Yarm Parish Council

Yarm Town Council members object to the proposed application on a basis of increased late night noise and inconvenience to adjacent residents

Cleveland Police

No response received

Councillor Andrew Sherris:

Has no objection to the proposal.

PLANNING POLICY CONSIDERATIONS

Policies GP1 of the adopted Stockton on Tees Local Plan is relevant to this application.

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (i) The external appearance of the development and its relationship with the surrounding area;
- (ii) The effect on the amenities of the occupiers of nearby properties;

- (iii) The provision of satisfactory access and parking arrangements;
- (iv) The contribution of existing trees and landscape features;
- (v) The need for a high standard of landscaping;
- (vi) The desire to reduce opportunities for crime;
- (vii) The intention to make development as accessible as possible to everyone;
- (viii) The quality, character and sensitivity of existing landscapes and buildings;
- (ix) The effect upon wildlife habitats;
- (x) The effect upon the public rights of way network.

MATERIAL PLANNING CONSIDERATIONS

This application proposes a variation of the hours of use of the business to allow the unit to open until 01:30 hours (00:30 for members of the public). It is considered that the main issue with regard to this application is the impact of the extension of hours on the amenities of the occupiers of nearby properties.

Although the applicants seek consent to open the premises to members of the public until 00:30 hours, it is appreciated that noise associated with this use will continue beyond this time as a result of staff clearing/cleaning up and themselves vacating the premises – a point made by the Inspector in his decision letter.

Whilst the Environmental Health Unit has no objections to the proposal, concerns are raised and a condition recommended to improve the specification of an existing flat roof.

The Local Planning Authority has no particular concerns over the extension of hours in respect of the properties frontage and access onto the High Street as it is within an area where such activity already occurs. The area to the rear where the car park is located and where staff and customers are likely to use is of greater concern, being closely related to residential properties, and where background noise levels are likely to be reduced from those of the High Street.

It is likely that the area to the rear will have limited use and that the majority of traffic associated with the entrance and exit via the front and be likely to have minimal impact on the area to the rear.

In the light of the lack of objection from the Environmental Health Unit or comments from Cleveland Police, and that the noise generated around the building is unpredictable, it is considered that subject to the implementation of a management plan devised to minimise the noise and disturbance arising from the use of the rear of the building, that a temporary permission to allow a trial period of extended working hours would be acceptable.

It should be noted however, that as any permission granted would be temporary, the works to the flat roof cannot be made as part of any permission granted.

CONCLUSION

The premises are within a town centre location where both residential and commercial properties are located, both of which have conflicting interests. The determination of the application is therefore about achieving a reasonable balance between differing uses.

It is considered that on balance, and taking account of the nature of the area, the proposed extension of time and the likely impacts on the surrounding area, the proposed

variation of hours could prove acceptable, and to that end a temporary permission for a trial period of 18 months is recommended, at which time the merits of any subsequent application for a permanent modification could be considered by the Planning Committee.

RECOMMENDATION

The development is therefore accords with policy GP1 of the adopted Stockton on Tees Local Plan and it is recommended that planning permission is granted, subject to the conditions above.

Director of Development and Neighbourhood Services

Contact Officer: Andrew Glossop– Telephone 01642 527796

Financial Implications

As report.

Environmental Implications

As Report

Community Safety Implications

N/A

Human Rights Implications

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Background Papers

Stockton-on-Tees Adopted Local Plan (1997)

Ward and Ward Councillors

Ward	Yarm
Ward Councillor	Councillor Mrs Jennie Beaumont
Ward Councillor	Councillor Brian Jones
Ward Councillor	Councillor Andrew Sherris