

DELEGATED

AGENDA NO
PLANNING COMMITTEE

DATE 20 MAY 2009

REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

09/0818/COU

29 Oxbridge Lane, Stockton-on-Tees

Change of use from A2 (betting shop) to A5 (hot food takeaway)

Expiry Date: 4 June 2009

SUMMARY

The planning application seeks approval for the change of use from an existing betting office (A2) to a hot food takeaway at 29 Oxbridge Lane, Stockton.

The application site is located in Oxbridge Lane Neighbourhood Centre and 10 individual letters of objection have been received from local residents/businesses (including a petition with 99 signatures), and 7 letters of support. 4 other letters have been received as a result of consultation on the planning application; however these letters give no indication of support or objection.

The application accords with the local plan policies and the application is recommended for approval with conditions.

RECOMMENDATION

Planning application 09/0818/COU be Approved subject to the following conditions:-

01 *The development hereby approved shall be in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority.*

<i>Plan Reference Number</i>	<i>Date on Plan</i>
SBC0001	8 April 2009

Reason: To define the consent.

02 *Details of any extract ventilation or fume extraction system, including the position of ventilation, fume or flue outlet points and the type of filtration or other fume treatment to be installed and used in the premises shall be first approved by the Local Planning Authority and installed before the development hereby permitted commences and therefore retained in full accordance with the approved details.*

Reason: To ensure a satisfactory form of development.

03. *Before any extract ventilation, fume extraction or refrigeration system is brought into use the building, structure and system shall be insulated against the emission of noise in accordance with a scheme to be approved by the Local Planning Authority. Such noise insulation shall be thereafter maintained to the satisfaction of the Local Planning Authority. Any new ventilation, fume extraction or refrigeration system*

installed subsequent to the approval shall not increase background levels of noise as agreed without the agreement in writing of the Local Planning Authority.

Reason: To ensure that the extract ventilation, fume extraction or refrigeration system plant is adequately soundproofed in the interests of the amenities of the occupants of nearby premises.

- 04. *Before the use commences, the building shall be provided with sound insulation to ensure that adequate protection is afforded against the transmission of noise between the residential accommodation above and the hot food takeaway with a scheme to be submitted to and approved in writing by the Local Planning Authority***

Reason: To protect the amenity of nearby residents from excessive noise.

- 05. *The use hereby permitted shall not be open for business outside the hours of 1600 hours and 2330 hours with the property being closed and vacated by 2400 hours each day.***

Reason: To ensure that adjoining residential properties are not adversely affected by the development.

- 06. *The drainage system to the premises shall be provided with a suitable grease trap so as to prevent the discharge of grease into the public sewer.***

Reason: To ensure a satisfactory form of development

The proposal has been considered against the policies below and it is considered that the scheme accords with these policies as the development is considered to be a suitable use for the local area and will not have an adverse effect on the vitality and viability of the neighbourhood centre or have an adverse impact on neighbouring properties or highway safety and there are no other material considerations which indicate a decision should be otherwise.

Stockton on Tees Local Plan

GP1 General Principles and S14 Use Classes A3, A4 and A5

PPS6 Planning for Town Centres

PROPOSAL

1. Planning permission is sought for the change of use of an existing vacant A2 unit to a hot food takeaway (A5).

SITE AND SURROUNDINGS

2. The application site is 29 Oxbridge Lane, a corner property at the junction with Sheraton Street and Oxbridge Lane. The application site lies within Oxbridge Lane Neighbourhood Centre as defined in Alteration No 1 of the Stockton on Tees Local Plan,
3. To the front of the site are a public footpath and an area of adopted highway, and beyond that is the main carriageway, Oxbridge Lane.
4. The building is three storeys and is currently vacant at ground floor having last been used as a Betting Shop. Residential accommodation is provided at first and second floors.

CONSULTATIONS

5. The following Consultations were notified and the comments received are summarised below:-

Urban Design Highways Comments

6. The Head of Technical Services originally expressed concern that a hot food takeaway was likely to generate a greater number of vehicular trips to the site than a betting shop and as the site has no parking provision; all parking will need to be accommodated on the highway. Objections were also raised to the use of the hardstanding area to the front which is adopted highway and forms part of the visibility splay for the junction of Sheraton Street and Oxbridge Lane. As such this area would not be considered suitable for off street parking under any circumstance and could lead to illegal parking outside the shop and close to the junction, to the detriment of highway safety.

After further consideration The Head of Technical Services confirmed that waiting restrictions exist to prevent this indiscriminate parking, as they apply to the entire adopted highway. In reviewing the application, it is not considered that a significant amount of additional trips will be generated by this change of use and there is available on-street car parking in the vicinity of the site.

In light of the above, no objections have been raised to the proposal

Councillors

7. No Comments made

Environmental Health Unit

8. I have no objection in principle to the development, however, I do have some concerns in relation to the lack of detail regarding odour control and noise disturbance late at night given that there is residential accommodation adjoining the premises. I therefore would recommend conditions be imposed on the development should it be approved relating to;

- Noise disturbance from plant
- Noise disturbance from access and egress to the premises
- Drainage - grease trap
- Odour nuisance

PUBLICITY

9. Neighbours were notified and comments received are summarised below. The site notice publicity period does not expire until the 19th May, 2009. Any further representations will be detailed in an update report to Committee.

Letters of objection

Oxbridge Residents Association (stephen.riddle@ntlworld.com)

10. We need to register our strong opposition to this application, Stockton Council have made a right mess of the town centre with these fast/junk food places, we already have a fish & chip shop, 2 Chinese takeaways & a pizza shop, even the petrol station sells hot food, no more please.

A Scott 25 Oxbridge Lane' Stockton-on-Tees

11. Already eight takeaways in the area within 1/2 mile. The Oxbridge Pub also provides food until late. I already have problems with litter from takeaways.

Sajeda Basharat 37 Oxbridge Lane' Stockton-on-Tees

12. I object to this planning application, as this will have a great impact upon my family's quality of life. Firstly the most important reason for my opposition towards this planning application is; it will add to the traffic and parking issues, which I already face. The issues include having to manoeuvre through dangerously parked cars with my two children as we are trying to dodge manic drivers. Also, there is the awful stench of various cooked/uncooked foods mixed with dirty overflowing drains that frequently flood the road. By adding another take away in this small area it would add to an increase in allsorts of environmental issues that Oxbridge already possesses, from blocked drains and litter to rodent infestations. Finally by introducing another take-away it would increase activity leading to persistent unlawful behaviour from the use of colourful language to physical fighting. So by allowing another takeaway in this already compacted area, it would make life living in this area a desperate need rather than wanting and enjoying life in the house and area I live in.

Mr A Mannaf 47 Richmond Road Stockton

13. I have to strongly object to the application as
- 1 - Oxbridge Lane has 8 hot food licences maybe more. - Mama Mia Pizza, Italian Restaurant, Oxbridge Pub, Picasso's, Wing's Chinese, The Hing Ping's, Stevenson's Garage, Oxbridge Fish Bar.)
 - 2 - Parking on a main junction Sheraton Street Oxbridge Lane junction. The cars will park at the junction causing difficulty and a nightmare for other road users when reversing out. Also the two spots outside the premises, which I am talking about, will disrupt pedestrians (an accident waiting to happen).
 - 3 - The applicant mentioned he bought the property and has had no luck renting it what he hasn't mentioned he owns all the block and bought it knowing its rental capacity and moving its current tenants to 19 Oxbridge Lane.
 - 4 - Noise will increase yes it is a mixed area but that doesn't mean we have to forget about the residents living above and around the properties who will not want an increase in noise around the times the finish work and come home expecting a quiet night in.
- I hope you take into consideration the local residents need and this letter doesn't fall on deaf ears- it's our community and we want a say in it.

John Shafiq, 81 Oxbridge Lane' Stockton-on-Tees

14. I strongly object above application on the grounds that this is a very busy two road junction and corner site. There is an ambulance station close behind this property as well as a scrap yard which consist of heavy and fast emergency traffic at all the time I believe this will be a major accidental black spot if this application was granted and people will park on the very corner of this fast and busy road.

I further object to this application because there is no need for further takeaway as there are already sufficient to serve this community and the surrounding area

Mr and Mrs Adbul Agha 24 Sydenham Road' Stockton-on-Tees

15. We object as we do not understand why there would be any need in another take away so closely located to so many others.

Also, the takeaway is located on the main road of Oxbridge Lane, which is very busy and is situated near a very busy junction. Coming in and out of that junction is hard and frantic as it is, giving the opportunity for other drivers to park there to pick up food or other reasons does not help the situation.

To continue, as parents, we are even more concerned not only because of the parking and the busy junction; but the fact that there is a primary school situated completely opposite this junction. Making the area busy would therefore create more risks of accidents occurring because of the children. This would then result in people having to park nearer to the school as they would be unable to find a parking space near the takeaway.

Liaqau Ali 10 Balmoral Terrace' Stockton-on-Tees

16. I, object to the application due to the well-being of the local community with regards to environment and public safety.

I feel that the particular location of the premises is a cliff-hanger, as it is overcoming traffic from Oxbridge lane as well as Sheraton Street.

With another hot food outlet on this premises it would have a massive effect on my family run business due to the economy, having more than 8 other takeaways in the vicinity and already struggling in this recession.

Irfan Ali 10 Balmoral Terrace' Stockton-on-Tees and A petition with 99 signatures

17. I would like to take this opportunity to object to this proposal.

There are enough A5 uses in the locality to serve the area and allowing another business would take a huge toll on mine, as well as everyone else's livelihood. Coping and trying to keep diminutive businesses on peak or even on steady income is a struggle and is hard enough without another competitor around the corner.

Having another catering business would cause a lot of problem with parking and infestation. The property is placed on the corner of the road, which is a problem again for our customers, and the other local businesses; as our regular customers would not be able to park. Additionally, emergency vehicles use Sheraton Road numerously to get in and out of their ambulance station. Having vehicles heavily crowded around that area would be extremely erroneous as emergency vehicles would not be able to get in and out by that exit as efficiently as they can now.

A petition with 99 signatures was also submitted with this letter

Ann Wilson, 17 Oxbridge Lane, Stockton

18. No need for another hot food takeaway, also problems already in the area with parking and litter

Mr S Salman, 1 Windsor Road Stockton

19. No more please. We already have so many we are just going to make it like Yarm road takeaways back to back. Please take into account local residents wish. Also an accident waiting to happen on that junction you need to pave the corner (try pushing a child's chair when a vehicle is parked in front of the premises).

Letters of Support

Matthew Bell 17 Rugby Road Stockton-on-Tees

20. I am a local resident and like to offer my support to the use, as it would improve choice in the area. The council should be supporting the use of new shops that will offer quality food at affordable prices.

Miss Claire Luke, 14 Carr Street, Stockton-on-Tees

21. The shop has been empty for sometime and another takeaway would compliment the existing shops. I support the change of use (A5) that might attract a suitable business that benefits the community and surrounding area.

N Swainston, 25 Oxbridge Lane, Stockton-on-Tees

22. As landlord of the above property I would like to offer my support to the application. There are other takeaways but competition is good for all business. We do not want empty shops in Oxbridge, all businesses attract tenant/customers etc, which create jobs for the benefit of the community and maintain the upkeep of the street scene.

Rebecca Luke, 101 Windsor Road, Stockton-on-Tees

23. This block has seen significant investment and will always support property owners who maintain the buildings for the community. Empty shops offer a dead frontage and can encourage anti-social behaviour. Additional hot food takeaways will not cause a problem. I support this application and the jobs it may create.

M Luke 71 Oxbridge Lane Stockton

24. I support the application as we do not want empty shops and this use will not be detrimental to Oxbridge and the surrounding neighbourhoods. My view is to support local businesses and avoid empty shops which can cause an area to look run down.

Allan Cowley 20 Ellen Avenue' Stockton-on-Tees

25. Support the application

Greig Cowley 100 Hampton Road' Stockton-on-Tees

26. More choice is needed of hot food takeaways

Other letters

Andy Walters 98 Hampton Road' Stockton-on-Tees

27. Concerns raised over food hygiene and therefore does not use takeaways

Lauren Cowley, 20 Ellen Avenue' Stockton-on-Tees

Christopher Paterson 100 Hampton Road' Stockton-on-Tees

Tanzi Cowley 100 Hampton Road' Stockton-on-Tees

28. Letters signed and returned however no comments made

PLANNING POLICY

29. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan(s) is the Stockton on Tees Local Plan (STLP), Tees Valley Structure Plan (TVSP) and the Regional Spatial Strategy (RRS).

30. The following planning policies are considered to be relevant to the consideration of this application

Policy GP1

31. 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.

Policy S14

32. Proposals for Use Class A3, A4 and A5 'Food and Drink' development will be permitted in the defined retail Centres listed in Policy S1, where the proposal is in accordance with the following retail locational policies:-

- 1) Within the Defined Stockton Town Centre, subject to Policies S4, S5 and S6;
- 2) Within the defined District Centres except Yarm, subject to Policy S7;
- 3) Within the defined Yarm District Centre, subject to Policies S8;
- 4) Within the defined Local and Neighbourhood Centres, subject to Policies S10;
- 5) Outside of the defined retail Centres, proposals for A3, A4 and A5 uses will only be permitted if there are no suitable units available within the defined Centres, or there are justified exceptional circumstances that necessitate such a location.

Proposals for all Use Class A3, A4 and A5 uses will be considered against the following criteria:-

- i) the level of traffic generated and the provision of parking facilities, both in terms of highway engineering considerations and the general amenity of the area;
- ii) any adverse impact of proposals on residential amenity in terms of smell, noise, litter fumes and disturbance;
- iii) the provision of adequate and effective fume extraction and filtration equipment;
- iv) the provision of facilities for litter within and adjoining the premises;
- v) the secure provision for trade waste, stored in an out of sight location;
- vi) where appropriate, conditions limiting the late night opening may be applied.

33 PPS6 : Planning for Town Centres March 2005

MATERIAL PLANNING CONSIDERATIONS

34. The main planning considerations of this application are planning policy implications, the impact on the amenity of the surrounding properties and access and highway safety.

Planning Policy

35. The application site lies within a defined neighbourhood centre. The applicant has provided evidence that the property has been vacant for over a year and marketed as an A2 or A1 unit. However, the proposal does not lead to a loss of an A1 retail unit and therefore Policy S10 does not apply and this evidence is not required.
36. Alteration No 1 states that 'It is important to maintain the overall vitality and viability of the Local and Neighbourhood Centres shopping function and where possible promote improvements' and also that 'A3, A4 and A5 uses are to be directed to the identified retailing Centres where a broad range of uses would normally be expected, and therefore their perceived impact would not be so great. Such locations will also protect the amenity of other areas, especially areas of predominantly residential use where food and drink uses are unlikely to be permitted'.
37. A survey was carried out of this neighbourhood centre and it was found that there were 10 retail uses and 14 other uses including the school, church, petrol filling station and car sales. Excluding the school, which takes up a significant proportion of the centres frontage, approximately 34% is retail and 66% non-retail. Should this application be approved the permission would not alter that figure. Planning consent has been given for a retail unit on the site of the existing petrol filling station which, if implemented would take the retailing figure to approximately 49%.
38. Whilst objectors have stated there are approximately 8 food shops in the area, there are only 3 with a valid planning consent for A5 use in this neighbourhood centre. The remainder of the units appear to fall in other uses classes such as 'Foodies' which is an A1 sandwich bar, the garage (sui-generis) and Oxbridge Public House (A4). This local centre caters for a wide variety of local needs and appears to be successfully achieving its function with a low vacancy rate.
39. Taking the above into consideration, whilst the percentage of retailing uses is low, this permission would not alter that and should the permission for Stevenson's garage be implemented then this would be substantially improved. Overall it is considered that approval of this proposal in this location would not have an adverse impact on the vitality and viability of the centre
40. The main planning policy relevant to the consideration of this application is Policy S14 of Alteration No 1 to Stockton on Tees Local Plan which states that to Proposals for all Use Class A3, A4 and A5 uses will be considered against certain criteria which are addressed in the remainder of the report.

Impact on the amenity of neighbouring properties

41. Concerns were raised over the need for the development and the number of existing takeaways in the locality, competition, noise and anti-social behaviour, litter and potential increase in traffic (which is addressed in paragraphs 46-48).
42. The issue of competition is not a material planning consideration; PPS 6 states, 'It is not the role of the planning system to restrict competition, preserve existing commercial interests or to prevent innovation'. The number of hot food takeaways has been addressed

in paragraphs 28 – 31 above, and it is not considered that such a use will have an adverse effect on the vitality of viability of this neighbourhood centre.

43. This is a neighbourhood centre on a main thoroughfare where a certain amount of noise and disturbance is to be expected. Environment Health has viewed the proposal and has requested that the hours of operation be restricted to prevent any adverse impact on the neighbouring properties from the use. It is therefore considered expedient to attach a condition recommending similar hours to nearby hot food takeaways, which ensures the operation is closed by 12 midnight.
44. One objector has mentioned anti-social behaviour in the area through increased activity. As pointed out by the applicant there is no evidence to link such issues to either the applicant's property or the proposed use. Any potential problems arising from this behaviour can be dealt with by other methods such as the police service or community enforcement section.
45. Issues regarding smell can be dealt with by installing adequate and effective fume extraction and filtration equipment, which can be secured by condition.
46. Objectors have commented that the area suffers with litter. This is a societal issue and litter bins have been provided in the area, including one outside the application site. It is considered that adequate facilities exist for the disposal of litter, however as with any takeaway use clients cannot be forced to use the facilities only directed to them.

Highway Safety

47. The Head of Technical Services was consulted on the application and originally objected as it was considered that hot food takeaway was likely to generate a greater number of vehicular trips to the site than a betting shop and as the site has no parking provision, all parking would be accommodated on the highway. Concerns were raised over the possible use of a hardstanding area to the front of the property being used which would lead to vehicles reversing out onto a busy junction which would be detrimental to highway safety and contrary to the Highway Code. Further information was also required with regards to employees parking facilities and where any home delivery vehicle will park.
48. The Head of Technical Services reviewed the application and the fact that waiting restrictions exist to prevent indiscriminate parking on the hardstanding area. It is considered that any illegal parking and issues arising from this can be dealt with under separate legislation,
49. In addition, after further consideration of the concerns over the existing hardstanding area the Head of Technical Services reconsidered his advice and concluded that there was sufficient parking available within the area to accommodate the car parking requirements of the use and therefore has no highway objections

Other Matters

50. Policy S14 states that secure provision for trade waste, stored in an out of sight location must be provided. This is to be provided in the rear yard area.
51. Comments regarding inadequate drainage causing overflows and possible rat infestations are not matters that are dealt with under planning legislation and would be addressed by other Departments in the Council or the relevant Public Bodies.

CONCLUSION

52. In conclusion, it is considered that the proposed use complies with policies GP1 and S14 of Alteration Number 1 of the Stockton on Tees Local Plan and the proposal will not have an adverse effect on the vitality or viability of the neighbourhood centre or have an adverse impact on neighbouring properties or highway safety.
53. The application is recommended for approval with conditions.

**Corporate Director of Development and Neighbourhood Services
Contact Officer Mrs Elaine Atkinson Telephone No 01642 526062**

WARD AND WARD COUNCILLORS

**Ward Parkfield and Oxbridge
Ward Councillor Councillor M Javed**

**Ward Parkfield and Oxbridge
Ward Councillor Councillor R Rix**