

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

2 MARCH 2011

**REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

10/3096/ARC

Former Campbells Tyre Depot, 5 High Street, Yarm

Application to remove condition no. 10 of planning approval 07/1962/REV Revised application for demolition of existing garage buildings and erection of 3 storey building comprising cafe/bistro on ground floor with 3no. apartments above and associated car parking. Please see the accompanying documentation for justification. - We wish for the condition to be removed as described in the accompanying documentation.

Expiry Date: 8 February 2011

SUMMARY

Planning permission was granted for the erection of a 3 storey building comprising cafe/bistro on the ground floor with 3 apartments above. A condition was imposed requiring the premises to be used for a café / bistro which would have prevented the ground floor of the premises from being changed under permitted development rights to an alternative use class. Where permitted development rights apply, there is an allowance for an A3 use (includes cafe/bistro) to be changed to an A1 (retail) or A2 (financial or professional services) use class without the need for planning permission.

The applicant is seeking to remove the restrictive condition (no.10) from the approved scheme. This would allow the premises to change from its approved use to either an A1 or A2 use class. In order to do this in compliance with Planning Law, the building and its use would first need to be constructed and operated for a period of time as per the initial approval under 07/1962/REV i.e. as a cafe / bistro with residential apartments. The remainder of conditions associated with application 07/1962/REV would remain in place, including the restriction of opening hours.

Six letters of objection were received. Objections mainly relate to the loss of control over the scheme which could then be used for any commercial purpose, impacts on the surrounding residential properties, it being a prominent site entering the town and that further applications could be made to extend opening hours and for an alcohol licence, therefore developing this site into a nightclub or late night bar.

The scheme is located in close proximity to residential properties and as such considerations were made in respect to the nature of the use, particularly the ground floor cafe / bistro and in respect to its opening hours. Conditions were imposed in respect to both of these in order to retain adequate control over the development and ensure its suitability within the immediate environment.

RECOMMENDATION

Planning application 10/3096/ARC be Approved subject to the following conditions:-;

01 *Approved Plans*

The development hereby approved shall be in accordance with the approved plans detailed under application 07/1962/REV unless otherwise agreed in writing with the Local Planning Authority.

02 Levels as agreed

The levels for the building shall be in accordance with details agreed under application reference 08/1290/APC submitted to discharge conditions, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To take into account the properties position and impact on adjoining properties and the street scene in general, in accordance with Policy HO3 of the Stockton on Tees Local Plan.

03 Parking control of lay-by

The commercial use hereby approved shall not commence until a scheme of controlled management for the lay-by has been implemented on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure adequate servicing provision is achieved for the development.

04 Retention of boundary walls

Notwithstanding details hereby approved, the boundary walls to the southern and western boundaries of the site shall be retained in their current form unless agreed otherwise in writing with the Local Planning Authority.

Reason: In order to retain adequate levels of privacy in accordance with saved Stockton on Tees Local Plan Policy EN24.

05 Parking brought into use

The residential units hereby approved shall not be occupied until the parking spaces have been marked, laid out and brought into use in accordance with a scheme to be submitted to and approved in writing with the Local Planning Authority. The future maintenance of these spaces shall be carried out in accordance with a scheme to be submitted to and approved in writing with the Local Planning Authority prior to the residential units being occupied.

Reason: In order to ensure adequate provision is made for the future demands of the uses in accordance with the requirements of Core Strategy Policy CS2.

06 Cycle Store – As agreed

The provision of a cycle store at the site shall be in accordance with details agreed under application reference 08/1290/APC submitted to discharge conditions, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to adequately provide for the future users of the site and comply with the requirements of Core Strategy Policy CS2.

07 Scheme of hard landscaping - Discharged

The scheme of hard landscaping throughout the site shall be in accordance with details agreed under application reference 08/1290/APC submitted to discharge conditions, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity and in order to adequately protect the landscape features of the site in accordance with saved Stockton on Tees Local Plan Policy EN24.

08 Design Details

Notwithstanding the details included on the approved plans, the following design requirements shall be incorporated into the proposed scheme:-

- a) All windows within the elevations of the building shall be timber, vertically sliding sash painted with a colour to be first agreed in writing with the Local Planning Authority;*
- b) All windows shall be recessed from the face of the building by an amount to be first agreed in writing with the Local Planning Authority;*
- c) All doors and their surrounds shall be timber, of a style to be first agreed in writing with the Local Planning Authority.*
- d) All rooflights shall be conservation flush fit roof lights finished in black.*
- d) The Shop front shall be constructed from timber and painted in a colour to be first agreed in writing by the Local Planning Authority.*
- e) All rainwater goods shall be made of cast iron, painted black with gutters being set on rise and fall brackets.*

The above details shall be incorporated into the scheme unless otherwise agreed in writing with the Local Planning Authority. The agreed details shall be retained for the duration of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control details of the proposed development in accordance with saved Stockton on Tees Local Plan Policy EN24.

09 Service delivery times

The commercial use of the premises shall only receive deliveries between the hours of 10:00am and 3.00pm Monday to Saturday and at no other time.

Reason: In order to prevent undue impact of service deliveries on adjoining residential properties and to prevent such deliveries taking place during peak hours thereby minimising traffic conflict.

10 Opening Hours

The commercial use and its associated premises to which this permission relates and that approved under application reference 07/1962/REV shall not be open for business outside the hours of 09.00 hours and 20:00 hours, and shall be vacated by all visiting members of the public by 20:00 hours.

Reason: In the interests of the amenities of the occupants of residential properties in the locality.

11 Amplified music

There shall be no amplified or other music played in the premises unless in accordance with a scheme of such to be first submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include details of sound attenuation and decibel levels.

Reason: In order to prevent undue nuisance caused by noise pollution to occupants of surrounding residential properties.

INFORMATIVES

General Policy Conformity

The proposed scheme has been considered against the policies and documents identified below. It is considered that the scheme accords with these documents as the proposal does not lead to an undue loss of privacy or amenity for neighbouring residents and would not unduly affect the vitality or viability of the defined retail centre for Yarm. There are no material planning considerations, which indicate that a decision should be otherwise, therefore the application is recommended for approval.

Stockton on Tees Local Plan Policies HO3, EN24 and EN28

Stockton on Tees Local Plan Alteration no. 1 Policies S8 and S10.

Stockton on Tees Core Strategy Development Plan Policies CS2 CS3 and CS5.

BACKGROUND

1. 00/1358/P – Conservation Area Consent for demolition of garage buildings. Withdrawn 2nd October 2003.
2. 00/1359/P – Erection of a 2 and 3 storey bar / restaurant and associated parking. Withdrawn 17th September 2003.
3. 06/3255/CON – Conservation Area Consent approved to demolish garage buildings to allow proposed 3 storey block containing retail space with ancillary offices and associated car parking.
4. 06/3256/FUL – Application for the erection of 3 storey block containing retail space with ancillary offices and associated car parking. (demolition of existing buildings). Withdrawn on the 4th April 2007.
5. 07/1962/REV. Approved on the 21st September 2007 as a revised application for 'demolition of existing garage buildings and the erection of 3 storey building comprising cafe/bistro on ground floor with 3 apartments above and associated car parking'.
6. Since the schemes approval, pre-commencement conditions have been discharged and the former garages have been demolished therefore constituting a commencement of development.
7. 08/1290/APC - Application for approval of details reserved by condition no's 3 (levels), 7 (cycle store) and 8 (hard landscaping) of planning approval 07/1962/REV. Conditions discharged.
8. 09/2958/VARY - Application to vary condition no. 12 of planning approval 07/1962/REV to allow the cafe/bistro on the ground floor to remain open until 23.00hrs Sunday to Thursday and 24.00hrs on Fridays and Saturdays. Refused and appealed. Appeal dismissed.

PROPOSAL

9. Planning permission is sought to remove condition no. 10 of planning approval reference 07/1962/REV. Condition 10 is worded as follows;

The premises shall be used for a café / bistro falling within use class A3 of the Town and Country Planning Use Classes Order 2005 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.

Reason: To enable the Local Planning Authority to retain control over the development.

CONSULTATIONS

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

Yarm Town Council

I have been instructed by Members of Yarm Town Council to remove the objection to the above application as previously informed. The Town Council was misinformed in error of the information provided in respect of the planning application and objected to the removal of condition no 10 (last order time). The Council has since been informed that the removal of condition no 10 does not relate to last order time and therefore fully supports the removal of condition number 10.

May I apologise in behalf of Yarm Town Council for any inconvenience this may have caused.

PUBLICITY

Neighbours were notified and 6 letters of objection were received. Comments received are summarised as follows:

Gill Baker, 35 Hemingford Gardens Yarm

I would like to register my objections to the above planning application. The removal of clause 10 would allow this site to be used for any commercial purpose rather than the limitation of no late evening use. I am concerned that the intent for the removal of this clause is to ultimately develop this site into a nightclub or late night bar, which I believe would be to the detriment of the town. The site is outside of the main commercial area and is surrounded by residential properties so noise would be an issue. I also believe that Yarm would not benefit from an additional late night bar/club and this would create a potential public nuisance as people may travel from outside the area if Yarm became the "nightclub centre" of Stockton.

Also this location is a prominent site as you enter the town and the use of this location is critical to the impression of an historic market town. Ultimately, I believe this site would be better used for car parking which is what the town really needs - rather than an additional bar/club.

I have recently received a letter from Prism Planning, trying to explain to me that "the removal of condition (10) would not allow it to operate as a nightclub or late night bar as a number of people have surmised". Following receipt of this letter (attached), I would like to add a couple of further points to my objection.

I recognise that condition 10 was included in the original permission to allow the council to maintain control of the development. As this site is located in a conservation area, is surrounded by residential properties away from the main commercial district, and commands a prominent position as you enter the High Street then I think it is important that SBC maintains some control over the development. If control is relinquished, then I believe that further applications could be made to extend opening hours and for an alcohol licence and therefore, as I stated in my original letter, "ultimately develop this site into a nightclub or late night bar".

Secondly, if the reason for wishing to remove the condition, is to allow a retail development, (as the attached letter states) then I believe another application for a retail establishment should be made, including detailed plans of type of retail (ie small units - of which Yarm already has plenty, or a single larger shop - which may require some parking provision), rather than trying to develop a retail site, via the back door, after the original application for a retail operation was turned down.

I hope that you will take these additional points into consideration when looking at this proposed amendment.

Yarm and District Social Centre, Bentley Wynd Yarm

This development should not have been allowed at all. The area should have been bought by the council and made over to car parking as should the other corner opposite.

Vickey De Main, 24 St Nicholas Gardens Yarm

Concerned that the removal of the condition will result in another unapproved scheme such as a late night bar. I don't think a cafe / bistro is appropriate in a mainly residential area and feel a daytime commercial enterprise or a car park would be more appropriate.

Mrs P Brown, 11 Bentley Wynd Yarm

I don't think Stockton council and the residents should lose control over the development.

Mrs Amanda J Nicklin, 15 Bentley Wynd Yarm

I am opposed to the above proposal as it represents a loss of control of the development of this site. The council deemed it necessary to include this clause after carefully considering the original application in detail. Why is it now acceptable to remove it? This leaves the site open to any form

of commercial development with only building regulations and licence approvals required. If the applicant wishes to use the site for small retail outlets, takeaway food, a bar or a supermarket, why are they not working within the original conditions and simply applying for planning permission for the intended use.

I would like to stress that this site is located in a residential area, away from the bustling centre of Yarm. All the potential commercial uses of this site will have a significant off site impact on residents. Without knowing what the site is to be used for this impact cannot be assessed. Depending on the use of it may affect anti social behaviour / crime, car parking, creation of litter, loss of privacy, means of access, noise, smell/ fumes and traffic.

This is also a conservation area and the site is located directly next to the finest Georgian in Yarm. The suitability of the development for such an area must be considered at a planning authority level.

I am aware that the existing plot is currently unsightly but I trust that your decision will not be influenced by this and lead to an inappropriate permanent development. Please also ensure that the other original planning conditions are maintained and reinstated following a decision on this application.

Andrew Nicklin, 15 Bentley Wynd Yarm

I object because this is removal of a level of control that was put in place for a reason.

PLANNING POLICY

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 is the Core Strategy Development Plan Document and Stockton on Tees Local Plan (STLP)

The following planning policies are considered to be relevant to the consideration of this application:-

Policy S8 – Alteration No. 1

Proposals for new development and change of use at ground floor level, from retail (Use Class A1) within the defined boundary of Yarm District Centre will be permitted provided that: -

- i) the additional use results in no more than four non-retail units adjacent each other or a total of 15 metres continuous non-retail frontage (which ever is the greater); and
- ii) no more than 60% of the High Street's overall length of frontage will be given over to non-retail uses following implementation of the proposal; and
- iii) the proposed use does not lead to the loss of residential accommodation (see Policy S9); and
- iv) the proposal would not prejudice use of the upper floors; and
- v) The proposal would preserve or enhance the character or appearance of the Conservation Area and protect and preserve Listed Buildings and their settings.

Policy S10 – Alteration no. 1

Proposals for change of use from retailing (Used Class A1) within the defined boundaries of the Local and Neighbourhood Centres identified on the Proposals Map will be resisted, unless it can be demonstrated that: -

- i) The character, vitality and viability of the Centre will not be adversely affected as a retailing centre;
- ii) Reasonable efforts have been made to market the premises for retail uses;
- iii) It is appropriate in scale and function to the Centre;
- iv) With specific reference to Norton Local Centre –

- 1) There is no detrimental impact upon the residential amenity of the Centre in accordance with Policy S11;
- 2) There is no loss of, or detrimental alteration to, a building or feature of historic, architectural or archaeological interest;
- 3) There is no loss of its historic character and appearance, and no detrimental impact on the visual and architectural character of Norton Conservation Area

Policy EN24

New development within conservation areas will be permitted where:

- (i) The siting and design of the proposal does not harm the character or appearance of the conservation area; and
- (ii) The scale, mass, detailing and materials are appropriate to the character and appearance of the area

Policy EN28

Development which is likely to detract from the setting of a listed building will not be permitted.

Core Strategy Policy 2 (CS2) – Sustainable Transport and Travel

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.
2. All major development proposals that are likely to generate significant additional journeys will be accompanied by a Transport Assessment in accordance with the 'Guidance on Transport Assessment' (Department for Transport 2007) and the provisions of DfT Circular 02/2007, 'Planning and the Strategic Road Network', and a Travel Plan, in accordance with the Council's 'Travel Plan Frameworks: Guidance for Developers'. The Transport Assessment will need to demonstrate that the strategic road network will be no worse off as a result of development. Where the measures proposed in the Travel Plan will be insufficient to fully mitigate the impact of increased trip generation on the secondary highway network, infrastructure improvements will be required.
3. The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide. Further guidance will be set out in a new Supplementary Planning Document.
4. Initiatives related to the improvement of public transport both within the Borough and within the Tees Valley sub-region will be promoted, including proposals for:
 - i) The Tees Valley Metro;
 - ii) The Core Route Corridors proposed within the Tees Valley Bus Network Improvement Scheme;
 - iii) Improved interchange facilities at the existing stations of Thornaby and Eaglescliffe, including the introduction or expansion of park and ride facilities on adjacent sites; and
 - iv) Pedestrian and cycle routes linking the communities in the south of the Borough, together with other necessary sustainable transport infrastructure.
5. Improvements to the road network will be required, as follows:
 - i) In the vicinity of Stockton, Billingham and Thornaby town centres, to support the regeneration of these areas;
 - ii) To the east of Billingham (the East Billingham Transport Corridor) to remove heavy goods vehicles from residential areas;
 - iii) Across the Borough, to support regeneration proposals, including the Stockton Middlesbrough Initiative and to improve access within and beyond the City Region; and
 - iv) To support sustainable development in Ingleby Barwick.
6. The Tees Valley Demand Management Framework will be supported through the restriction of long stay parking provision in town centres.
7. The retention of essential infrastructure that will facilitate sustainable passenger and

freight movements by rail and water will be supported.

8. This transport strategy will be underpinned by partnership working with the Highways Agency, Network Rail, other public transport providers, the Port Authority, and neighbouring Local Authorities to improve accessibility within and beyond the Borough, to develop a sustainable transport network and to increase choice and use of alternative modes of travel.

Core Strategy Policy 3 (CS3) – Sustainable Living and Climate Change

All new residential developments will achieve a minimum of Level 3 of the Code for Sustainable Homes up to 2013, and thereafter a minimum of Code Level 4.

2. All new non-residential developments will be completed to a Building Research Establishment Environmental Assessment Method (BREEAM) of ‘very good’ up to 2013 and thereafter a minimum rating of ‘excellent’.

3. The minimum carbon reduction targets will remain in line with Part L of the Building Regulations, achieving carbon neutral domestic properties by 2016, and non domestic properties by 2019, although it is expected that developers will aspire to meet targets prior to these dates.

4. To meet carbon reduction targets, energy efficiency measures should be embedded in all new buildings. If this is not possible, or the targets are not met, then on-site district renewable and low carbon energy schemes will be used. Where it can be demonstrated that neither of these options is suitable, micro renewable, micro carbon energy technologies or a contribution towards an off-site renewable energy scheme will be considered.

5. For all major developments, including residential developments comprising 10 or more units, and non-residential developments exceeding 1000 square metres gross floor space, at least 10% of total predicted energy requirements will be provided, on site, from renewable energy sources.

6. All major development proposals will be encouraged to make use of renewable and low carbon decentralised energy systems to support the sustainable development of major growth locations within the Borough.

7. Where suitable proposals come forward for medium to small scale renewable energy generation, which meet the criteria set out in Policy 40 of the Regional Spatial Strategy, these will be supported. Broad locations for renewable energy generation may be identified in the Regeneration Development Plan Document.

8. Additionally, in designing new development, proposals will:

- Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;
 - Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;
 - Incorporate ‘long life and loose fit’ buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards; Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.
9. The reduction, reuse, sorting, recovery and recycling of waste will be encouraged, and details will be set out in the Joint Tees Valley Minerals and Waste Development Plan Documents.

Core Strategy Policy CS5 – Town Centres

1. No further allocations for retail development will be made other than in or on the edge of

Stockton Town Centre during the life of the Core Strategy.

2. Stockton will continue in its role as the Borough's main shopping centre. Up to 2011, the need for additional capacity can mostly be met through committed developments and the occupation and reoccupation of vacant floor space. Beyond 2011, there may be a requirement to bring forward new retail developments within the town centre in the first instance, to improve quality and widen the range of the shopping offer in the Borough.

The creation of specialist roles for Stockton, for example as a sub-regional historic market town, or through the concentration of a mix of ethnic retailers or small independent chrysalis⁷ stores, will be supported. Other initiatives will include:

- i) Improving the main approaches to the town via the Southern, Eastern and Northern Gateways, through creating new development opportunities and promoting environmental improvements;
- ii) Promoting a balanced and socially inclusive cultural sector and 24-hour economy across the town centre, particularly in the vicinity of Green Dragon Yard;
- iii) Providing additional leisure opportunities, and other town centre uses, in accordance with Planning Policy Statement 4: Planning for Sustainable Economic Growth;
- iv) Improving pedestrian links to the riverside.

3. Billingham, Thornaby and Yarm will continue to function as district centres. Priority to regeneration initiatives will be given to:

- i) Thornaby centre
- ii) Billingham centre

4. Proposals which support Yarm's specialist niche role in offering higher quality comparison shopping, together with leisure and recreation opportunities will be supported, provided that the residential mix within the district centre is not compromised.

Elsewhere, within the local shopping centres of Billingham Green in Billingham, Myton Way at Ingleby Barwick, Norton High Street and High Newham Court in Stockton, and the neighborhood centres, development will be promoted and supported provided that it complements and does not adversely impact upon the regeneration of the town and district centres, and where it is in accordance with Planning Policy Statement 4: Planning for Sustainable Economic Growth.

5. The use of upper floors above shops and commercial premises, particularly for residential purposes, will be encouraged, to support the viability and vitality of the centres.

6. The existing roles played by Teesside Park as an out-of-town location, and Portrack Lane as out-of-centre site, are recognised. Whilst no additional retail or leisure development proposals will be encouraged in these locations or any other out of centre locations, any proposals which emerge will be dealt with as under 7 below.

7. Should any planning application proposals for main town centre uses in edge or out-of centre locations emerge, such proposals will be determined in accordance with prevailing national policy on town centre uses as set out in Planning Policy Statement 4: Planning for Sustainable Economic Growth or any successor to Planning Policy Statement 4.

SITE AND SURROUNDINGS

10. The site is located at the southern end of Yarm High Street, an area characterised by terraces of two and three storey historic commercial and residential properties bordering each side of the central highway and associated parking areas.
11. The High Street lies to front of the site with a listed 3 storey residential property to the rear and its garden to the side. Bentley Wynd is situated to the remaining side (north) with a partially developed plot of land fronting Bentley Wynd facing the application site. This partially developed plot was granted planning approval for a residential development and although foundations have been laid, there has been no construction activity for a prolonged period of time and the building works remain to be limited to that of the foundations.

12. The site which is the subject of this application had a former use as a commercial garage which included a building to the rear of the site and a concrete hard standing to the remainder. The garage building has been demolished following approval being granted for the sites redevelopment.

MATERIAL PLANNING CONSIDERATIONS

13. The condition to restrict the ground floor part of the approved use to a cafe / bistro was imposed to allow the Local Authority to retain an element of control over the development that would otherwise be unachieved, taking into account the allowances through the General Permitted Development Order whereby changes in the use classification of the building would be possible without the need for planning permission to be obtained.
14. At the time of considering the approved scheme the following was detailed within the committee report;

The Cafe / Bistro is a type of use identified as contributing to the vitality and viability of town centres whilst being a use which should be directed to the identified retail centres on the basis of the criteria such as protecting residential amenity. This proposal relates to an out of centre location, although lies within close proximity to the edge of the defined centre. Paragraph 33 of the supporting text to Policy S7 of Alteration No.1 indicates that Yarm has a niche market with regard to evening entertainment and its associated contribution to the local economy, although advises that whilst encouraged conservation of the built environment is the overriding principle. This document indicates that Yarm's ground floor units were shifting away from retailing and in order to protect the vitality and viability of the retailing within the centre, policy requires 40% of frontages to be in A1 (retailing) use. This proposal relates to an A3 use and therefore, if located within the Defined Yarm District centre would be contrary to this policy of restraint.
15. Policies within Alteration no. 1 of the Local Plan are saved policies and remain to be relevant to development affecting Yarm Centre. In addition, since the approval of the initial application, the Core Strategy has been adopted and Policy CS5 relating to Town Centres is also relevant. Core Strategy Policy CS5 supports proposals which will support Yarm's specialist niche role in offering higher quality comparison shopping, together with recreation and leisure opportunities provided that residential mix within the district centre is not compromised.
16. This current proposal to remove the condition would not affect the approved opening hours or the other conditions imposed on the initial application. The removal of the condition would allow the use (once constructed and operated for a period of time) to change to a retail use or a financial or professional services use. In considering these two potential future uses consideration needs to be given to their impact on the vitality and viability of Yarm Centre as well as on the surrounding residential properties and their associated amenity.
17. The principle of a town centre use has already been established on the site by the earlier approval, partly on the basis of there formerly being a non conforming use on the site. Relevant policies within Alteration no.1 of the Local Plan and the Core Strategy seek to ensure retailing is the predominant use within the defined centre and that the residential mix within the centre remains.
18. Were the restrictive condition to be removed as is being sought by this application, the potential future change of use of the approved café / bistro would only allow it to change to a retail or financial / professional services use, with the residential above and these are the uses which are sought for retention within the High Street area. Although this site lies outside of the defined centre, removing the condition would allow the premises to offer uses

which support the main centres use, unless the defined centre were already failing in regard to its provision of retailing. From the most recent surveys undertaken by the Council, it is noted that the defined Yarm centre has a high occupancy rate, a relatively high number of retail premises and a limited turnover of units. Based on these current circumstances, it is considered that the proposed removal of the condition would comply with the thrust of relevant policy as it would not be detrimental to the provision of the defined centre.

Impact on surrounding area

19. In order to consider the impact of the removal of the condition, it is necessary to consider the impact of the retail and financial / professional service uses which could occupy the building in the future which are currently restricted.
20. A retail use at the end of the High Street is likely to operate mainly during the normal working day, which is consistent with the remainder of retail premises within the High Street, although this will be dependent on the end user. The approved opening hours under application 07/1962/REV restrict the A3 (café / bistro) use between 9am and 8pm in the interests of the amenities of the occupants of residential properties in the locality. Were a newsagents or similar type of retailer to open here and intend opening later into the evening then this would extend the impacts of use into the hours of the day when a greater level of amenity would normally be expected from the surrounding residential properties. The applicant recently sought to extend the opening hours of the café / bistro although was refused permission by the Local Planning Authority following which an appeal was dismissed on concerns that an extension of the opening hours would unduly affect the residential amenity in the surrounding area. Although a retail use is unlikely to result in any anti social behaviour, late night opening of retail premises can result in them being congregation points for younger people which would, in association with the general usage, inevitably result in some degree of noise and disturbance for surrounding residents late at night. As such, in view of all of the above, it is considered appropriate to impose a new condition on the approved scheme which would restrict the opening hours of any business operation (not just an A3 use) from the premises which attracts customers. This is to adequately reflect the sites limitations taking into account its proximity to residential properties.
21. A financial services use is likely to attract a relatively small number of people at any one time, although for shorter durations than the cafe / bistro use. A use of this type is also likely to operate during normal working hours. It is unlikely to result in any late night noise or disturbance or notable out of hours deliveries. As such, it is considered that an A2 use operating from the approved building is likely to have a reduced impact on the surrounding area than that of a cafe / bistro, thereby being acceptable in this regard.
22. A number of objections have been received raising concerns that proposals will come forward to extend opening hours and change the use into a late night bar or night club. Whilst these concerns are noted, such changes would require further permissions and these matters are not a consideration of this current proposal.
23. Suggestions that the site should be used as a car park to support the town centre are noted although these are not material to the consideration of this proposal.
24. Comments relating to the site being at a prominent position on entering the centre and the conservation area are noted although this proposal does not affect the appearance of the building or site in general.
25. The conditions listed take account of necessary restrictions as detailed within this report and the already discharged conditions associated with the earlier approval.

CONCLUSION

26. The proposed removal of the condition is considered to be acceptable taking into account the levels of retailing within the centre and the allowances that could be achieved through the permitted development rights for the premises. However, in order to preserve the level of residential amenity, a condition is recommended to restrict opening hours to any future commercial use of the premises.

Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Andrew Glossop Telephone No 01642 527796

WARD AND WARD COUNCILLORS

Ward Yarm
Ward Councillor Councillor J Earl, Councillor Mrs J. Beaumont, Councillor A B L Sherris

IMPLICATIONS

Financial Implications: None

Environmental Implications: As report

Human Rights Implications:

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

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report.

Background Papers: See background section.