

DELEGATED

AGENDA NO
PLANNING COMMITTEE

8 MAY 2013

REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

13/0566/RET

Ground Floor, 4 - 6 Yarm Lane, Stockton-on-Tees,
Retrospective change of use from Hot Food Takeaway (A5) to Taxi Booking Office (Sui
Generis)

Expiry Date 1 May 2013

SUMMARY

This application seeks retrospective planning permission for a change of use from a hot food takeaway (A5 Use Class) to 24-hour operating taxi booking office (Sui Generis Use Class). The applicant has advised in writing that the use operates two vehicles only; a licensed Hackney cab and a licensed private hire car.

The application site relates to the ground floor of No 4-6 Yarm Lane that is located within both the defined Stockton Town Centre boundary and Conservation Area.

8 letters of objections have been received. These objections primarily relate to the exacerbated impacts on highway and pedestrian safety and that there are too many taxis in the area. These and other objections are set out below.

The Head of Technical Services has assessed the application and considers that an additional 2 vehicles will not create a highway safety issue. The Environmental Health Unit has raised no objections in principle to the use.

The use is considered to satisfy the provisions of Core Strategy Policies CS2, CS3, CS4 and CS5, saved Policies S6 and EN24 and the NPPF in terms of creating a sustainable form of development.

The application is therefore recommended for approval.

RECOMMENDATION

That planning application 13/0563/FUL be approved subject to the following conditions and informatives below;

01 *The development hereby approved shall be in accordance with the following approved plan(s);*

<i>Plan Reference Number</i>	<i>Date on Plan</i>
SBC0001	6 March 2013

Reason: To define the consent.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

General Policy Conformity

The use is considered to be acceptable as it is considered that the use would not result in an adverse impact on the character of the surrounding area and poses no unacceptable harm to the amenity of neighbouring residents. It is further considered that the scheme would not adversely affect highway or pedestrian safety. It is considered that the development accords with the relevant policies as set out below and that there are no material planning considerations which indicate that a decision should be otherwise.

The following policies of the Adopted Core Strategy Development Plan Document (March 2010), the Saved Policies from the Adopted Stockton on Tees Local Plan (1997) and associated documents are considered to be relevant to the determination of this application

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

Core Strategy Policy 3 (CS3): Sustainable Living

Core Strategy Policy 4 (CS4): Economic Regeneration

Core Strategy Policy 5 (CS5): Town Centres

Saved Policy S6 of Alteration No 1 to the Adopted Local Plan

National Planning Policy Framework

The Local Planning Authority has implemented the requirements of the National Planning Policy Framework

BACKGROUND

1. 00/1050/P; Planning permission was granted in August 2000 for a change of use from retail (A1) to a hot food takeaway (then classed as an A3 use).
2. 02/0589/P; Planning permission was granted in June 2002 for a change of use from a hot food takeaway to a private hire taxi office. The application was approved without any restrictive planning conditions.
3. The applicant was of the understanding that the 2002 approval was still a valid consent, however the permission expired in 2007 as the applicant was unable to demonstrate that the use had been implemented.
4. The representation from A2Z Licensing (acting on behalf of Tees Valley Cabs Ltd), states that the building has operated as a sandwich shop (A1 Use) and not as a hot food takeaway (A5 Use) but does acknowledge that a permitted change of use may have taken place. In view of approval 00/1050/P being the last known implemented planning permission for the site and notwithstanding any permitted change of use from the hot food takeaway to an A1 use (sandwich shop) in the intervening period, the application description is accepted in this instance as being a change of use from an A5 Use (hot food takeaway).

SITE AND SURROUNDINGS

5. The application site relates to the ground floor of No 4 - 6 Yarm Lane that is located within both the defined Stockton Town Centre and Conservation Area boundaries. The building is situated within a parade of commercial properties with a barber shop at first floor level. No 2 is present to the east (occupied by 'life church') and No 8-10 to the west (Tees Valley Cabs

taxi booking office). The site fronts onto Yarm Lane (south) with commercial properties situated opposite.

PROPOSAL

6. This application seeks retrospective planning permission for a change of use from a hot food takeaway (A5 Use Class) to 24-hour operating taxi booking office (Sui Generis Use Class). The submitted information indicates that the use commenced in January 2013 and employs three staff with 1 full time and 2 part time. The applicant has advised in writing that the use operates two vehicles only; a licensed Hackney Cab and a licensed Private Hire Car.

CONSULTATIONS

7. The following Consultees were notified and comments received are set out below:-

Head of Technical Services

Highways Comments

There is no incurtilage car parking associated with this property; the adjacent highway is protected by no waiting at any time and this section of Yarm Lane is closed between Prince Regent Street and High Street from 10 pm to 5.30 am Friday, Saturday, Sunday and Bank Holidays. This applicant has stated that they only operate 1 private hire vehicle and 1 hackney vehicle; having consulted with Network Safety it is considered that an additional 2 vehicles will not create a highway safety issue.

Landscape & Visual Comments

No comments.

Environmental Health Unit

I have no objection in principle to the development, however, I do have some concerns and would recommend the conditions as detailed be imposed on the development should it be approved.

No music, PA systems or Loud speakers

After 23:00 there shall be no music played or use of loud speakers within the premises likely to cause a nuisance to residential premises within the vicinity.

Councillor D Coleman

Councillor P Kirton

No comments received

Trading Standards and Licensing

We have no comments to make on this planning application.

PUBLICITY

8. Neighbours were notified and the following comments were received:-

D Jones 5 Yarm Lane Stockton-on-Tees

Too many taxis vying after the same parking places. We strongly object.

David B Wilson of A2Z Licensing (On Behalf Of Tees Valley Cabs Ltd), 3 Biddick Hall Cottages Lambton Park Chester-le-Street

I act on behalf of Tees Valley Cabs Ltd and its subsidiary businesses. My client's business is principally that of a private hire operator, trading from premises at 8-10 Yarm Lane, Stockton-on-Tees. I am duly authorised by the company to make this objection on its behalf in relation to the above application.

Whilst not necessarily critical, when considering a proposed future use (although the applicant commenced trading without obtaining the appropriate consent from the Council), it appears from the premises have never traded as a hot food takeaway (A5), but have been operated for over 10 years as a sandwich shop, a cold food shop (A1). It is, however, accepted that premises with A5 class use are permitted to be changed to A1, A2 and A3 use.

The premises the subject of the current retrospective application were granted planning permission for change of use to a taxi booking office in 2002 under the Council's planning reference 02/0589/P. Because the use of the premises were not changed within five years of the granting of that permission, the permission lapsed in 2007.

Since permission was granted in 2002 there have been many changes to national and local planning policies. As neither I nor my clients are planning experts, we do not purport to be able to detail those changes, let alone to explain the impact of each and every individual change.

As well as those policy changes, the Council has introduced night-time weekend closure of that part of Yarm Lane that includes my clients premises, as well as those of the applicant. The Council is asked to review its reasons for doing so, because whilst I have not been able to locate documentation relating to the part-time closure of Yarm Lane, I respectfully submit that it would be perverse, if the Council had introduced such measures for any reason other than to promote public / highway safety.

The introduction of the part-time closure of Yarm Lane created almost insurmountable operational difficulties for my clients, because their customers who walked to the booking office to book a taxi, more particularly a private hire vehicle, could no longer be picked up by their taxi at the office, but had to walk to an alternative pick up point and be picked up by the taxi allocated to their booking, as opposed to one allocated to another customer, also being picked up from the same alternative pick up point.

I think it is probably fair to suggest that licensing officers had grave doubts as to whether such a dislocated operation could be worked successfully, because a failure to put the right passenger in the right taxi would have been illegal and could have resulted in my client's private hire operator's licence. In order to ensure they did not contravene the law, my clients had to introduce a ticketing system and had their own marshal at the pick-up point - commonly known as the Swallow Hotel lay by - to ensure that the correct customer with the correct ticket were put into the correct taxi. The robustness of the system and, more particularly, its operation by my clients, has been tested by means of test purchasing.

If retrospective permission were to be granted for the use of 4-6 Yarm Lane as a taxi booking office, the applicant, who seems to trade as Direct Cars, would also have to have a pick-up point and operate a system to ensure that the right customer was picked up by the right taxi. Whilst my client cannot claim exclusive rights to use the Swallow Hotel lay by, the undesirability of two taxi companies picking up from that location is, of course, as undesirable as it is to have them both picking up from outside offices adjacent to each other.

I say 'undesirable', because already some of my client's customers have been picked up by vehicles operating under the control of Direct Cars. As long as such a vehicle is a Stockton-on-Tees Borough Council licensed hackney carriage, no offences is committed unless the driver illegally touts for that customer. Of much greater concern is the risk of a passenger who books with one firm getting into a private hire vehicle operated by the other firm.

My client has recent experience of customers booking with them and then, before reaching the pick-up point, which has had to be temporarily moved, because of the works on the High Street, getting into another vehicle. When that customer has brought a personal injury claim against my client, believing they had travelled in one of their vehicles, because that is who they always use, that they had not done so.

During the limited period Direct Cars have operated from 4-6 Yarm Lane, my clients have had to contact neighbourhood enforcement on at least seven occasions with regards to obstruction of the highway and / or parking on double yellow lines.

When the Swallow Hotel lay by was initially closed, my client asked for permission to pick up pre-booked customers from the closed off entrance to the box junction, but were refused permission to do so by highways, because it was considered unsafe to do so. Alternative arrangements were made for my clients to pick up their customers from an unused bus stop.

However, seemingly without any consultation with the Council, Direct Cars have operated throughout this period by picking up passengers at the said box junction.

Whilst I am sure no-one would accept that my client has no commercial interest in this matter, the fact is that there are clear and compelling public / highway safety issues as to why this retrospective application ought to be refused.

Unless I am mistaken, I believe that Saved Policy S6 of the Stockton-on-Tees Local Plan Alteration Number 1 to the Adopted Local Plan (March 2006) provides that the Council will seek "to maintain and strengthen the vitality and viability of the wider Stockton Town Centre defined on the Proposals Map, and will encourage proposals for development and change of use for a wide range of commercial, shopping, community, residential and leisure uses within the Town Centre boundary providing that: (i) they have no adverse effect on the amenity of the surrounding area in terms of level of activity associated with: (3) levels of traffic

If the town centre was not a retail and leisure centre there would be no need for my client or any competitor to have an office in the town centre. My own client, Tees Valley Cabs Ltd, also have commercial garage premises at Limeoak Way, Portrack Lane, Stockton-on-Tees TS18 2LS from which they could, subject to planning and licensing permission, operate a telephone booking service, but they do not do so, because of the public demand for a walk-in taxi booking office in the town centre.

My client accepts that competition is not a valid ground for the refusal of planning permission for change of use of 4-6 Yarm Lane to a taxi booking office, but we do respectfully submit that its proximity to my client's premises is such that it will adversely impact on the level of traffic outside the two premises on Yarm Lane and, at weekends, will create even greater dangers when they too have to pick up from an alternative location, although the need for one has not been identified in the application, let alone a proposal be made as to where that might be.

As I have remarked before, neither I nor my clients are planning experts and we have struggled to identify relevant planning policies, but it does seem to us that the following are relevant, if not highly relevant, to this application:

Core Strategy Policy 2 (CS2) Sustainable Transport and Travel of the Stockton-on-Tees Borough Council Local Development Framework (LDF) Core Strategy Development Plan (March 2010); Core Strategy Policy 3 (CS3) Sustainable Living and Climate Change of the Stockton-on-Tees Borough Council Local Development Framework (LDF) Core Strategy Development Plan (March 2010); and Core Strategy Policy 5 (CS5) Town Centres of the Stockton-on-Tees Borough Council Local Development Framework (LDF) Core Strategy Development Plan (March 2010);

In this regard, I note Policy TC2 and Supplementary Planning Document 3: Parking Provision for New Developments (October 2011) both emphasise the need for developments to provide sufficient car parking to serve the new development.

If it were not for the fact that my client's premises already have the benefit of planning permission for use as a taxi booking office and have been used as such for many years, pre-dating the changes to national and local planning policies and the weekend closure of Yarm Lane to vehicular traffic, it seems to me and my client that it would not now secure planning permission for use of its premises as a taxi booking office. In the circumstances, it is submitted that permission should not be granted for 4-6 Yarm Lane, just because permission was granted under a much earlier regime for my client's premises.

Despite the fact that the changes the Council has introduced over the years, particularly the weekend night-time closure of Yarm Lane, have caused legal and operational problems for my client, the owners and directors acknowledge that the road closure was needed to improve public / highway safety.

It is respectfully submitted that no-one operating a walk-in booking office in a town centre could reasonably be expected to operate their business if a council were to impose a planning condition prohibiting vehicles belonging to the operator or those of freelance drivers from calling at the premises, because that would wholly defeat the commercial objectives of operating from town centre premises.

Furthermore, with reference to the aforementioned policies, it does seem that the Council is keen to develop a town centre with a range of uses that contribute to creating and maintaining the vitality and viability of the wider Stockton town centre. It is respectfully submitted that allowing the change of use of A5 premises (used as A1 premises) to a taxi booking office (sui generis). With the greatest of respect, it does not seem to me that having only two taxi booking offices in the town centre situated next to each other does not benefit the regeneration of the town centre and does not even improve private hire facilities for the public, which would be achieved if the premises were situated at the other end of the High Street or elsewhere within the town centre.

In conclusion, it is submitted on behalf of Tees Valley Cabs Ltd that the approval of this additional booking office would exacerbate parking issues and obstruction of the highway to the detriment of the public and highway safety of the town centre; and would not contribute to the vitality and viability of the town centre.

In all the circumstances, on behalf of Tees Valley Cabs Ltd, I respectfully ask that the Council refuse to grant the applicant retrospective permission for the said change of use.

Shorash Rasul 30 Yarm Lane Stockton-on-Tees

I object to the opening of the new taxi office in the town and don't want any more taxi offices as it is already very busy with traffic.

Alan Mohammed 28 Yarm Lane Stockton-on-Tees

I object to the opening of the new office for taxi in town, there should be no more at this part of town.

Omid Mohamed 24 Yarm Lane Stockton-on-Tees I object to new opening, we don't need more traffic.

Mr Hamamsin 32 Yarm Lane Stockton-on-Tees

I, Ammash Hamamsin, object to the opening of the next taxi stand in town and would not want any other business to open on Yarm Lane near the town.

C Richards 86 Hume House Frederick Street Stockton-on-Tees

I strongly object as I feel there are too many taxis around that area and it is not safe enough with all those buses. It's a time bomb. I say no!

A letter of pro-forma was received from the following addresses (and is therefore classed as 1 objection)

Mojtaba Moghadam 68 Kildare Street

M Jones 11 Yarm Lane Stockton-on-Tees

A Aziz 8 Mansfield Street Stockton

Tufail Arif 13 Spring Street Stockton-on-Tees

I strongly object to the change of use for 6 Yarm Lane, as a taxi booking office. It is far too close to a major junction of the High Street the cars from 6 Yarm Lane are double parking and parking on double yellow lines and other road user have to manoeuvre around them onto oncoming traffic which are mainly buses and felt that it would be very unsafe they have been reported to neighbourhood enforcement on more than 8 occasions to warn them of the way they are parking as it is a fineable office.

Over the last two weeks the current licensee has been parking on the main road without care and consideration for other road users and public safety. He has also installed a gambling machine without proper approval. He has also been abusing the pedestrianised area for which Tees Valley Cabs lost their license.

What is also my concern is that on Friday and Saturday nights Yarm Lane is closed to all traffic and it is all directed to Bridge Road and through the high street we don't need more taxis chaos as there is fatality waiting to happen.

ALL this information has been reported to the appropriate authorities.

All of the above information is true and without prejudice and this is before you grant him permission.

I would like you to take these facts into consideration.

PLANNING POLICY

9. 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 saved policies of the Stockton on Tees Local Plan
10. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations
11. The following planning policies are considered to be relevant to the consideration of this application:-

National Planning Policy Framework

Paragraph 14. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking;

For decision-taking this means:

approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or -specific policies in this Framework indicate development should be restricted.

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

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.

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

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.

Core Strategy Policy 4 (CS4) - Economic Regeneration

8. Additionally, support will be given to:

- i) Suitable enterprises that require a rural location and which support the rural economy and contribute to rural diversification; ii) The establishment of new enterprises, particularly where related to existing industries, assisting them to evolve with advancing green technologies;
- ii) The expansion of research-based businesses associated with Durham University's Queen's Campus;
- iii) Growth in sustainable tourism, particularly in the following locations:
 - a. The River Tees as a leisure, recreation and water sports destination, with regard given to the protection and enhancement of the character of tranquil areas along the river corridor between the towns of Stockton and Yarm;
 - b. Preston Park;
 - c. Sites linked to the area's industrial heritage, including early history, railway and engineering heritage and the area's World War II contribution; and
 - d. Saltholme Nature Reserve.

Core Strategy Policy 5 (CS5) - Town Centres

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

Saved Policy S6 of Alteration No 1 of the adopted Stockton on Tees Local Plan,

Outwith the Primary and Secondary Shopping Frontages as shown on the Proposals Map, the Council seeks to maintain and strengthen the vitality and viability of the wider Stockton Town Centre defined by the Proposals Map, and will encourage proposals for development and change of use for a wide range of commercial, shopping, community, residential and leisure uses within the town centre boundary providing that: -

- viii) They have no adverse affect on the amenity of the surrounding area in terms of level of activity associated with: -
 - 1) Noise;
 - 2) Pollution;
 - 3) Levels of traffic;
 - 4) Opening hours - where appropriate will restrict hours of business in accordance with the Councils Licensing Policy.
- ix) They do not conflict with Policy S18 (this policy refers to developments associated with horticultural nurseries or for farm shops)
- x) They do not result in a continuous group of more than four units of Use Class A3, A4 or A5 (restaurants, bars and hot food takeaways)

MATERIAL PLANNING CONSIDERATIONS

12. The main issues with regard to this retrospective application are related to the principle of the change of use of the building, the impact on the character of the surrounding area, amenity issues and highway and public safety concerns.
13. 8 objections have been received as set out in full above, which can be summarised as follows;
 - *The use will worsen the existing parking problems, highway and pedestrian safety in the area, contrary to local planning policies;
 - *Such highway issues relate to parking on double yellow lines, matters of which have been reported to the Council's Uniform Enforcement Section;
 - *Illegal touting/pick ups have taken place that constitutes a breach of the Operator's License;

- *The measures introduced to close the section of Yarm Lane on a weekend should be reviewed;
- *The applicant needs a pick-up system in place;
- *The use affects vitality and viability of town centre, in particular having two booking offices side by side;
- *The objection from A2Z Licensing (acting on behalf of Tees Valley Cabs) suggests that the business would be best situated elsewhere in the town centre;
- *A gambling machine has been installed illegally within the building;
- *There are too many taxis in the area;
- *The use will affect surrounding businesses.

Principle of development and the relevant Development Plan Policies

14. The NPPF states that the "*Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system*".
15. The relevant Development Plan Policies are adopted Core Strategy Policies CS2, CS3, CS4 and CS5, in addition to saved Policies S6 and EN24 of the adopted Local Plan.
16. Saved Policy S6 of Alteration No 1 to the Adopted Local Plan (relating to proposed changes of use within the wider town centre boundary) sets out a policy that seeks to "*maintain and strengthen the vitality and viability of the wider Stockton Town Centre...and will encourage proposals for development and change of use for a wide range of commercial, shopping, community, residential and leisure uses within the Town Centre boundary*".
17. The use would not result in the loss of a retail unit or a continuous group of more than four units in Use Classes A3, A4 or A5, and is considered to be located in a sustainable location within the Stockton Town Centre boundary.
18. Whilst the NPPF does not include a taxi booking office with the glossary for 'main town centre uses', given the associated commercial activity within the town centre and in view of the sustainable location of the site, it is considered that the use is appropriately located, does not adversely affect the vitality and viability of the town centre and therefore accords with the provisions of Core Strategy Policies CS3(8), CS5 (2) and saved Policy S6.
19. Core Strategy Policy CS4 (economic regeneration) states "*the creation of employment and training opportunities for residents by developers and employers*". The applicant has confirmed that the use will employ three people (1 full time job and 2 part time jobs) and it is therefore considered that the use complies with this policy.
20. A further material consideration with respect to this application relates to the previous approval for a taxi booking office at the site. Whilst it is acknowledged that both local and national planning policies have changed in the intervening 11 years since the approval in 2002, this approval remains a material consideration to the assessment of the current application.
21. Taking the above considerations into account, the scheme is considered to conform with the provisions of Core Strategy Policies CS2, CS3, CS4 and CS5, and the provisions of the NPPF and is acceptable in principle subject to the scheme satisfying other material planning considerations as set out below.

Impact on character and appearance of the surrounding area

22. The scheme does not entail any external alterations to an existing commercial unit. It is therefore considered that the scheme will not have a significant adverse impact on the character and appearance of the surrounding area or introduce an incongruous feature into the surrounding Conservation Area. The scheme therefore satisfies saved Policy EN24 in this respect.

Amenity

23. It is acknowledged that there are a number of flats above some of the commercial units within immediate vicinity of the site along Yarm Lane, including flats above 12 Yarm Lane. However the application site is located in an established commercial area with most retail/commercial units operating between the standard hours of 0800-1800 hours and would therefore be closed during the busiest periods for the taxi booking office. The site is also located within close proximity to late evening uses including public houses. Furthermore, it is understood that the adjacent taxi booking office operates on a 24 hour/7 days a week basis (although the permission for this use appears to be historical).
24. In addition, the Environmental Health Unit has raised no objections to the application, subject to a condition restricting any amplified music to 2300 hours. Whilst these comments are noted, in view of the nature of the use (a taxi booking office) it is not considered reasonable or relevant to planning in this instance to control this, and therefore any such matters relating to noise disturbance can be controlled by separate legislation.
25. The submitted information details that the use operates as a 24 hour taxi booking office. In view of the above considerations including the town centre location, it is not considered necessary in this instance to restrict any potential customers from entering/visiting the site.
26. In view of the above considerations and that there will be no external alterations to the property, it is considered that the use will not lead to an adverse loss of amenity for adjacent commercial units and surrounding residential properties in terms of noise and disturbance, overlooking and overbearing.

Highway and pedestrian safety

27. With respect to the operation of the use, the applicant's agent has confirmed that "*the Hackney cab is on the road for most of the time and, when necessary, parks-up outside the town centre. Pickups are not made from outside the booking office - clients booking a taxi are given a business card and directed round the corner to the area on Bridge Road between the former Swallow Hotel and TBI solicitors to await their taxi - a system successfully used by the much larger operator based in 8 Yarm Road, next door to the application site*".
28. The Council's Trading Standards and Licensing department have made no comment with respect to the current planning application. The Licensing department has however confirmed that the applicant/business holds an operator's license (with the current licence due to expire on 30 November 2013) but that there are no conditions / restrictions with regard to pick ups from the building on the License.
29. The Head of Technical Services (HoTS) has raised no objections to the application commenting that the adjacent highway is protected by no waiting at any time and this section of Yarm Lane is closed between Prince Regent Street and the High Street from 10 pm to 5.30 am Friday, Saturday, Sunday and Bank Holidays. The applicant has stated that they only operate 1 private hire vehicle and 1 hackney vehicle; the HoTS conclude "*having*

consulted with Network Safety it is considered that an additional 2 vehicles will not create a highway safety issue".

30. Furthermore, Circular 11/95 (Use of Planning Conditions) sets out six tests which are:-

- a) Necessary,
- (b) Relevant to planning,
- (c) Relevant to the development to be permitted,
- (d) Enforceable,
- (e) Precise, and
- (f) Reasonable in all other respects.

31. It is considered that the imposition of a planning condition to prevent drivers returning to the site, waiting on Yarm Lane or requiring a system for pick ups etc, fails the test of relevant to planning, is not enforceable and is not reasonable in all other respects, taking into account the existing restrictions on the adjacent highway network where illegal parking can be controlled by separate legislation.

32. In view of the above considerations, it is considered that the scheme would not be contrary to the provisions of saved Policy S6 (3) or Core Strategy Policy CS2 and that the scheme is acceptable in terms of highway and pedestrian safety in this instance.

Residual Matters

33. With regard to a loss of business for nearby businesses, that there are too many taxis/taxi hire companies in the area, and the suggestion that the business should relocate elsewhere within the town centre, whilst these comments are acknowledged; this is also not a material planning consideration. This view is supported within appeal decision (APP/G3110/A/10/2139348), in which the Planning Inspector noted that "*it is not the role of the planning system to protect one retailer against another*".

34. Matters regarding illegal pick ups/touting is not a material planning consideration and relates to the Operator's License that can be enforced against by separate legislation to planning.

35. With respect to the comments regarding a review of the existing closure of Yarm Lane, this is a highway matter and not a material planning consideration.

36. With regard to the installation of a gambling machine within the premises, this is considered to be an ancillary element to the main use in this instance. Any other concerns would be a licensing matter.

CONCLUSION

37. The scheme is considered to accord with the principles of both local planning policies and the NPPF. The scheme is not considered to have an adverse impact on the character and appearance of the surrounding area or lead to an unacceptable loss of amenity for neighbouring land users. It is considered that the scheme will not have an adverse impact on highway and pedestrian safety and that there are no material considerations that indicate the application should be determined otherwise.

38. It is recommended that the application be Approved with Conditions for the reason specified above.

**Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Daniel James Telephone No 01642 528551**

WARD AND WARD COUNCILLORS

**WARD Stockton Town Centre
Ward Councillor(s) Councillor D. W. Coleman
Ward Councillor(s) Councillor P. Kirton**

IMPLICATIONS

Financial Implications: As report

Legal Implications: As report

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. The detailed considerations within this report take into account the impacts on neighbouring properties, visitors to the area, pedestrians and other relevant parties responsible for; or with interests in the immediate surrounding area. Consideration has been given to the level of impact and mitigating circumstances with conditions being recommended to reduce the impacts of the scheme where considered to do so.

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