

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

15 JANUARY 2014

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

13/2061/COU

33 Falcon Court, Preston Farm Industrial Estate, Stockton-on-Tees

Change of use from A3 to A1 (Hairdressing Salon)

Expiry Date 8 October 2013

SUMMARY

Approval is sought for the change of use of the application site from a vacant A3 unit to a hairdressers which is an A1 retail use at 33 Falcon Court Preston Farm Industrial Estate

Nine letters of support have been received for the proposal largely from people who work within the surrounding area. The grounds for support predominantly consist of the creation of jobs and support for the local economy through the likelihood of transferable business and the provision of a facility for the local work force.

A sequential test has been submitted with the application which considers a number of units within the defined retail centres across the borough (as advised by the Regeneration and Economic Development section). These are discounted, by the agent, for a number of reasons, as discussed in the main report including the floor space and layout being unacceptable to accommodate the proposed business model and units being financially unviable. The Council's Regeneration and Economic Development team were consulted on the application and have commented that a number of incentives have been put in place to encourage businesses to locate within the town centre such as Stockton Town Centre Loan and Property Improvements, Business Rate Discount Scheme and Start-up Loans & Micro Loans. The Council's Principle Valuer has also advised that the figures quoted within the sequential test are headline rents which are subject to negotiation and experience suggests that rents are being negotiated at 40-50% of headline rents.

In addition to this the Spatial Planning Manager has suggested flexibility is required in the business model and layout to accommodate the proposed hairdresser use within available units over more than one floor. It is considered that this could be done in such a way to accord with building regulation requirements for access for disabled users. This has been considered to be unacceptable by the applicant. However, Paragraph 27 of the NPPF states that, "where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused".

Although a sequential search has been completed, it is considered that, as detailed below suitable, available and viable units have been identified within Stockton Town Centre. Therefore the submission fails to satisfy the criteria of the NPPF and the extant Practice Guidance. As such it is considered approval of the proposed A1 use in this out of centre location would result in a detrimental impact upon the vitality and viability of the town centre (including committed and planned investment in the town centre). It is also considered that the proposal would set an undesirable precedent for future out of centre retailing proposals to circumvent the requirements of the Sequential Approach, and taken cumulatively, such out of centre uses could further impact upon the vitality and viability of the defined retail centres. In this regard the proposal is considered to be contrary to the provisions of the NPPF, Core Strategy Policy CS5, saved Policy S2 of

Alteration No 1 to the adopted Local Plan and Planning For Town Centres 'Practice guidance on need, impact and the sequential approach'.

Additionally, owing to the location of the application site and the suitability and attractiveness of the surrounding highway network for walking and cycling and the limited access to public transport, the use would be in an unsustainable location and it would place a high reliance on the private motor car, thereby being contrary to Core Strategy Policy CS2(1), and the provisions of National Planning Policy Framework.

The Environmental Health Unit and The Head of Technical Services have raised no objections. Whilst there are no significant concerns regarding the impacts upon the amenity of neighbouring land users, character of the surrounding area or highway safety, significant concerns remain over the detrimental impacts on the vitality and viability of the defined retail centres and its unsustainable location, contrary to local and national planning policies. Whilst support comments from the local workforce are noted these do not outweigh the planning policy conflict and warrant approval of the application. Therefore the application is recommended for refusal, as outlined below.

RECOMMENDATION

Planning application 13/2061/COU be Refused for the following reasons;

01. In the opinion of the Local Planning Authority the use would be in an unsustainable location and would place a high reliance on the private motor car, particularly taking into account the limited provision of bus services and suitability and attractiveness of the surrounding highway network for walking and cycling, thereby being contrary to Core Strategy Policy CS2(1), and the provisions of National Planning Policy Framework (Paragraphs 29, 32 and 35).

02. In the opinion of the Local Planning Authority, the applicant has failed to provide a robust demonstration that the retail use cannot be provided within the defined retail centres and thereby satisfying the provisions of the National Planning Policy Framework or the Adopted Local Plan. Approval of the use would set an undesirable precedent which would make it difficult to refuse other similar applications, the cumulative effect of which would be to adversely affect the vitality and viability of the Stockton Town Centre and other defined retail centres, contrary to the provisions of the NPPF (paragraphs 23, 24 and 27), Core Strategy Policy CS5, saved Policy S2 of Alteration No 1 to the adopted Local Plan and Planning For Town Centres 'Practice guidance on need, impact and the sequential approach'.

Informative

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

BACKGROUND

1. The original approval for the estate (03/2006/P) identified this unit as an A3 unit and associated shop selling hot food. A later approval for the unit had a condition restricting the unit to A3 use only with an ancillary meeting area which would be used as an overflow for the restaurant.
2. Permission was allowed for a part change of use from restaurant (A3) to retail (A1) on 31st July 2008 (planning reference 08/1477/COU). However it is noted in the report that generally an A1

retail use would not be acceptable in this location. As such the approval was subject to a condition strictly limiting the use for the sale of hot and cold food for the consumption on and off the premises and not any other A1 uses as classified by the Town and Country Planning (Use Classes) (Amendment) Order 2005 to enable the Local Planning Authority to retain control over the development. The justification for this use was that the proposed Greggs unit would serve the people working within Preston farm industrial estate and would therefore provide a service to the surrounding business uses. As such it was not considered that the change of use to part of the unit to operate as Greggs would be detrimental to the vitality and viability of the defined retailing centres within the borough.

SITE AND SURROUNDINGS

3. The application site is a single storey building located within Preston Farm Industrial Estate which predominantly consists of two storey office buildings. The original approval of the area included the single storey building as an A3 use including a meeting and conference facility. In 2008 part of the building received permission to operate as a Gregg's to serve the surrounding businesses. The application site remained in A3 use subject to a condition which restricts the use to A3 as approved. There is car parking directly in front of the application site and an area of planting. There are no residential properties within the immediate vicinity of the application site.

PROPOSAL

4. Approval is sought for the change of use of the application site from a vacant A3 unit to a hairdressers which is an A1 retail use. The proposal would operate Monday to Friday between 10am and 6pm. Whilst the proposal includes internal alterations there are no external alterations associated with the change of use. The scheme would result in approximately 164 sqm of retail floor space being created.

CONSULTATIONS

5. The following consultee response were received and these are set out below:-

Head of Technical Services

Highways Comments

Given the extant use of the building there are no highway objections.

Landscape & Visual Comments

This proposal has no landscape or visual implications.

Environmental Health Unit

Environmental Health Unit have no comment to make on this application

Spatial Plans Manager

Thank you for consulting the Spatial Planning team regarding this application. It is understood that policy advice is required on the application of the sequential test for this particular application which seeks A1 (retail) approval in an out-of-centre location.

Policy Background;

Core Strategy Policy 5 point 7 states that:

"Should any planning applications 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 (PPS4)"

PPS4 was replaced by the National Planning Policy Framework (NPPF) in 2012. Paragraph 24 provides the Governments policy on the sequential test. This states:

"Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

In addition to this policy background significant guidance on applying the sequential test is available in the Planning for Town Centres practice guidance (2009) which will be replaced in the near future by the emerging planning practice guidance website.

The application site;

The site benefits from an A3 consent, however, permitted development rights have been removed which would allow a change of use to a retail unit (A1 use class). The proposed retail use would sub-divide an existing larger building to allow the operation of a hairdressing business, which has a floor space of 1,600sqft (approximately 150sqm). The remainder of the building would remain in A3 use.

Details of the letting should be sought from the applicant and the Spatial Planning Team recommends that you discuss the viability aspect of the application with the Council's Land & Property, and Regeneration Sections.

The assessment;

Of the 24 properties assessed, all were discounted with the following reasons cited:

- o Property is for sale only
- o Landlord estate management practice;
- o Property is too small
- o Property is too big
- o Space is over multiple floors and is not suitable
- o Rates and/or rents make the property unviable
- o Investment required is prohibitive

Whilst these reasons may have merit, the supporting information does not appear to have applied sufficient flexibility to the assessment of these sites. For example, the business model does not seek to locate development on upper floors for health & safety (slips & trips when customers move between floors), and security reasons (lack of surveillance of the shop floor). The Spatial Planning Team has reviewed the business model put forward by the applicant and provided an alternative 'flexible' business model that could be accommodated in numerous sequentially preferable locations. This requires:

- o Ground Floor (90sqm) - This would include all of the salon elements of the business; and
- o First Floor (54sqm) - This would accommodate ancillary areas and beauty rooms.

This model would meet the health and safety concerns as all hairdressing elements would remain on one floor. The uses suggested for the upper floor are either ancillary areas not open to the public, or small treatment rooms which would require a closed door to maintain the modesty of the client. The nature of these rooms means they will provide little natural

surveillance to the salon. It is recommended that you discuss this application with the Regeneration team to identify appropriate sequentially preferable units on the basis set out above.

Summary

Hopefully you will find the above in order, should you require any further information please do not hesitate to discuss this application with me.

Additional Comments (in relation to additional sequential test information)

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Development and Regeneration

Regeneration & Economic Development acknowledges that the change of use request represents investment and employment opportunities; however concerns were expressed over the impact of this 'out of town' proposal on town centre vitality. A sequential test should consider a town centre location, in addition to other defined shopping districts across the borough.

Additional Comments

The Council's Regeneration & Economic Development department acknowledges that the change of use request represents investment and employment opportunities; however concerns were expressed over the impact of an 'out of town' proposal on town centre vitality. A sequential test was requested to consider a town centre location, in addition to other defined shopping districts across the borough.

We understand that a sequential test has taken place with the applicant considering a number of options, in and around Stockton Town Centre. Stockton Borough Council have put in a variety of support measures in place to try and encourage people to locate into Stockton Town Centre, including;

Stockton Town Centre Loan and Property Improvements

- o Loans available for Town Centre based businesses and premises.
- o Financial contribution to building / business improvement works.
- o Up to 30% of the cost of the work (minimum work value £3,350).
- o Property Improvement grants available to repair historic buildings in Stockton Town Centre (subject to eligibility).
- o Available to owners and long term leaseholders of the buildings.

Start-up Loans & Micro Loans

- o Start-up Loans for new businesses up to £3,000, if taking commercial premises.
- o No Match Funding required.
- o Micro Loans for small, existing businesses, who are demonstrating growth of up to £5,000.
- o 50/50 Match Funding required.

Business Rate Discount Scheme

- o 50% rate reduction on business rates for up to two years period.
- o Must be a new or expanding business.
- o For businesses considered to be primarily 'A Use Classes', although some exclusions exist.

Reaching Retailers

- o Assistance in starting up a Retail Business.
- o Mentoring for existing Stockton Town Centre retailers.
- o Help in developing an online presence including social media.
- o Retail Test Trade opportunities available in Stockton Enterprise Arcade.

PUBLICITY

6. Neighbours were notified and comments received are set out below. A total of 9 letters of support have been received;

Susie Kaylor - Viscount House 29 Falcon Court

Support the application as the proposal would provide a facility to serve the local community.

Gina Hotham - Viscount House Falcon Court

Support at the proposal would provide an additional facility for the local area.

Craig Gill - 12 Coxwold Road Stockton-on-Tees (Summarised)

Support the application as the proposal would create new jobs, the proposed hairdressing salon will be a premium establishment and high end clients would not want to visit Stockton Town Centre and would prefer an out of centre location. Given the high number of job losses in recent times within the area the Authority should support the applicant in creating new jobs and investing in the area.

Pauline Alderton - Viscount House Falcon Court (Summarised)

Support at the surrounding area will benefit as the area currently has limited amenities. It would reduce the need to travel by car and improve the area. The building has been vacant for a while and the likelihood of transferable business is high.

Caroline Waggott - Viscount House Falcon Court (Summarised)

Support the application as it will create more jobs and provide a needed amenity to the local area. The proposal will not increase the need for the private car and the likelihood of transferable business is high.

Mr And Mrs Davies - 2C Opus Park Lockheed Close (Summarised)

Support the application as it will improve the local area. It is within walking distance of local businesses, with staff using the services without the need to travel by car.

Mrs Caroline Buckley - 11 Butts Lane Egglecliffe (Summarised)

Support the application as the proposal will provide a facility which will be reached by the road and by cycle paths. It will provide a facility within walking distance of nearby residents (such as Water Avens Way).

G Alder - 69 Heselden Aveune Acklam (Summarised)

Support the application as the unit has been vacant for a year and would greatly benefit from being occupied while supporting other business. The proposal would provide an extra service which would support local businesses.

Sophie Quinney - Viscount House Falcon Court (Summarised)

Support the application as there is a large working community within the vicinity of the site without many amenities. The likelihood of transferable business is high and would create employment.

PLANNING POLICY

7. 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.
8. 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
9. The following planning policies are considered to be relevant to the consideration of this application:-

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.

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.

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 5 (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 chrysalis 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

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.

4. 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 neighbourhood 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.

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.

Saved Policy S2 of Alteration No 1 of the adopted Stockton on Tees Local Plan

Proposals for new, or extensions to existing, major retail development outside the Primary Shopping Area within Stockton Town Centre and beyond the boundaries of the District and Local Centres, as illustrated on Proposals Map, will not be permitted unless :-

- i) there is clearly defined need for the proposed development in the catchment area it seeks to serve ; and
- ii) it can be clearly demonstrated that there are no other sequentially preferable sites or premises which are available, suitable and viable to accommodate the identified need the proposed development seeks to serve, starting from sites :-
 - 1) within the Primary Shopping Area within Stockton Town Centre or within the boundaries of the various District or Local Centres defined under Policy S1; followed by
 - 2) on the edge of the Primary Shopping Area within Stockton Town Centre or on the edge of the boundaries of the District and Local Centres within the Borough, then

3) in out-of-centre locations which are well served by a choice of means of transport, close to an existing centre, and which have a high likelihood of forming links with the centre; and only then

4) in other out of centre locations;

iii) the proposal would not have an adverse impact, either individually or cumulatively with other committed developments, upon any proposed strategy for a centre, or the vitality and viability of any centre within the local retail hierarchy set out in Policy S1 or nearby centres adjoining the Borough; and

iv) the proposal would be appropriate in scale and function to the centre to which it relates

v) the proposed development would be accessible by a choice of means of transport, including public transport, cycling and walking, and

vi) the proposed development would assist in reducing the need to travel by car, as well as overall travel demand.

Proposals for other key town centre uses in locations which lie beyond the Town, District and Local Centre boundaries defined on the Proposals Map will also be required to satisfy the above criteria. In relation to Criterion (ii), other Town Centre use proposals should be accompanied by evidence which demonstrates that there are no sequentially preferable development opportunities either within and/or on the edge of defined boundaries of the Town, District and Local Centres in the Borough.

National Planning Policy Framework

10. 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;

11. 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.

12. The relevant sections of the National Planning Policy Framework (NPPF) are considered to be relevant;

Section 1. Building a strong, competitive economy

Section 2. Ensuring the vitality of town centres

Section 4. Promoting sustainable transport

Section 7. Requiring good design

Section 8. Promoting healthy communities

MATERIAL PLANNING CONSIDERATIONS

13. The main planning considerations when assessing this application are compliance with planning policy and in particular satisfying the criteria set out in the NPPF and the development plan, the sustainability of the site, the impact on the character and amenity of the surrounding area and highway safety.

14. Nine letters of support have been received for the proposed change of use. These are largely on the grounds that the proposed hairdressers will provide a facility which is needed by the existing workforce within the immediate vicinity of the site thereby not relying on the private car, it will create additional jobs and given the premium nature of the proposal would be better positioned outside of the town centre. The submitted comments have been noted and will be addressed in the following report.

Principle of Development

15. The proposed for a change of use to A1 (retail) means that the application is seeking a town centre use within an out of centre location. In this regard there are a number of planning policies which deal with these issues and these are discussed below;

National Context

16. National Planning Policy Framework states that "planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should: *"recognise town centres as the heart of their communities and pursue policies to support their viability and vitality"*.
17. The NPPF also states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

Local Context

18. Core Strategy policy CS5 states that any proposals for main town centre uses in edge or out-of centre locations will be determined in accordance with Planning Policy Statement 4 (which has been replaced with NPPF, March 2012). The retail use sought is therefore subject to the tests set out in the NPPF, and the extant 'Planning For Town Centres (practise guidance on need, impact and the sequential approach, December 2009) which provides advice on how these tests should be undertaken.
19. In addition to the proposal being assessed against CS5, and the NPPF, saved Policy S2 of Alteration Number 1 to the adopted Local Plan also sets out policies for retail development and other town centre uses beyond defined retail centres. Whilst the proposal is not classed as a 'major' development, the guiding principles of the saved policy are applicable when assessing the impact of the scheme on defined centres, in particular the impact on Stockton Town Centre.
20. With respect to the sustainability of the site, Policy CS2 of the adopted Core Strategy regarding sustainable travel and transport states that accessibility should be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes to provide alternatives to the use of all private vehicles to promote healthier life styles. As such the sustainability of the location and the suitability of this specific scheme will be assessed below.
21. The Spatial Plans Manager has commented that local policies relating to the development still have significant weight and are in accordance with the provisions of the NPPF.

Sequential Assessment

22. Paragraph 24 of the NPPF states Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of

centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

23. The above referenced Practice Guidance on the sequential approach (Para 6.36) states that;

"National policy requires those promoting development, where it is argued that no other sequentially preferable sites are appropriate, to demonstrate why such sites are not practical alternatives in terms of their availability, suitability and viability". The Practice Guidance defines these terms as:

"Availability - whether sites are available now or are likely to become available for development within a reasonable period of time (determined on the merits of a particular case, having regard to inter alia, the urgency of the need).

Suitability - with due regard to the requirements to demonstrate flexibility, whether sites are suitable to accommodate the need or demand which the proposal is intended to meet.

Viability - whether there is a reasonable prospect that development will occur on the site at a particular point in time. Again the importance of demonstrating the viability of alternatives depends in part on the nature of the need and the timescale over which it is to be met".

24. In order to support the proposed development and justify the out of centre use, a sequential assessment has been submitted with the application. The applicant has therefore assessed a number of premises within the Borough and has concluded that the identified the application site is the only suitable, available and viable premises for the applicant's business. This has included a number of properties which the Council have considered to be available and with the basic floor space criteria set out by the application (i.e. 1500 sq ft with a flexibility of +/- 10%). The available units sent to the agent by the Economic Development and Regeneration department included all defined retailing centres within the borough. Taking into account the required floor space the suitable and available units were predominantly located within Stockton Town Centre. Below is a list of properties included in the submitted sequential test;

- 5a High Street (1229 square feet)
- 4 Nelson Terrace (1444 square feet)
- 42 Norton Road (1528 Square feet)
- 11 Yarm Lane (1710 Square feet)
- 99 High Street (previously a hair salon) (2100 square feet)
- 17-18 High Street (970 Square feet)

25. Further information has been submitted by the applicant including a detailed viability appraisal (not made available to the public). It concludes that it is not viable to operate the from 5a High Street because the floor space is spread over a three floors and is not suitable for the salon layout. Equally units 4 Nelson Terrace, 42 Norton Road and 11 Yarm Lane have been discounted by the agent as they are for sale only and the vendor is not willing to let the property, they are therefore not considered available. The applicant also considers 99 High Street would be unsuitable because it was previously occupied by a hair salon which failed. Further to this the toilet facilities would be located on the first floor which creates accessibility issues. The applicant/agent also considers it unsuitable as it is too large, spread across three floors and their being parking concerns whilst Lindsay House is demolished. No. 17-18 High Street was discounted by the applicants agent owing to the property being split over two floors, parking being a 5 minute walk away and the level of investment required to improve accessibility as well as being 30 % smaller than required.

26. Whilst the comments of the applicant/agent in dismissing the various sites are noted, para 6.33 of the Practice Guidance on the sequential approach states the decision by an individual retailer to promote a business model which cannot be accommodated in an existing centre will not justify discounting more central sites where they are available, suitable and viable. In every case it will be necessary to strike an appropriate balance between the requirements of the commercial sector and the requirements of national policy based upon local circumstances. While there is no policy requirement to demonstrate need, an operator claiming that it is unable to be flexible about its chosen 'business model' would be expected to demonstrate why a smaller store or stores could not meet a similar need. Understanding the business model which is being operated is fundamental to the application of the sequential test. The NPPF states that Applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale.
27. A number of units within the submitted sequential test including the additional units have been discounted as the business operation would need to be split over more than one floor. An email was sent to the agent demonstrating how the proposed use could work across more than one floor to accommodate all the required components of the business model (reception, salon, backwash, dispensary, colour section, storage, 2 x beauty rooms, office, staffroom and walkways). The agent has submitted comments in response to this stating that the proposed division of space is not logical and would result in a staff being away from the main reception area and would increase installation and maintenance costs by dividing the spaces. The agent also states that having more than one floor would discriminate against those with disabilities.
28. Having discussed the proposal with Building Control officers it is considered that there is sufficient space in the suggested vacant units such as 99 High Street to accommodate facilities to serve disabled users. Furthermore it is noted that there are a number of hairdressers which operate over more than one level and this would not be an unusual practice, particularly within town centres. This is apparent within units currently operating in Stockton Town Centre. Other units considered in the sequential test were considered (48 Durham Road) and ultimately discounted for being at the lower end of the floor space requirements and thereby being unable to accommodate future business development. However no details or evidence to support the need for space for future development has been submitted other than they are aspirations of the applicant. Such arguments also run contrary to the applicants claims about the larger size of other units. Should the business require further floor space to expand extensions under permitted development rights could be explored in further detail.
29. The Council's Regeneration section has considered the submitted sequential test and have commented that Stockton-on-Tees Borough Council has considered the new powers afforded to it by the Localism Act 2012 alongside the Portas Review. Recognising that business rates are a significant cost, it has introduced a Local Business Rates Discount Scheme to encourage the take-up of vacant units in Stockton Town Centre. This enables the provision of temporary financial assistance to support business growth and help start-up firms to encourage entrepreneurship and job creation. Through this scheme those business activities that are considered to be primarily 'A Use Classes', will be eligible to apply subject to some restrictions such as the unit being at ground floor, unoccupied and located within the primary and secondary retail frontages. Subject to State Aid legislation, where the property is occupied and the business is trading, a 50% discount on business rates payable will be awarded in Year 1 of the scheme and a further 50% discount will be awarded in Year 2, provided the eligibility criteria are met under the Scheme Qualification. The discount will be calculated on the net amount due after any statutory reductions have been posted to the account such as SBBR (Small Business Rate Relief).
30. The Council's Principle Valuer has viewed the submitted sequential test and has commented that from experience rents are being negotiated at 40-50% of headline rents. Therefore this should be considered when assessing the viability of units against the prices listed for each

property. Leases between 3 to 5 years are also being granted for such terms. In terms of business rates once a tenant takes occupation the business rates assessment on the property can be appealed once during the 5 year trench and therefore the tenant has this option in order to reduce the costs. The values however are based on 2008 vales (higher than current values) but for the next trench of business rates assessment for 2015 (although government has delayed this to 2017) the values are based on 2013 figures and therefore given the current market it's expected that business rates will reduce in Stockton High Street once the new business rates assessment is made.

31. In light of these comments it is considered that it weakens the arguments of high rents and rates and those put forward in respect of viability of a new business. It therefore remains the view that given the number of the units discounted on the basis that the rents and rates are too high and would place too much of a financial burden on a new business, it would be possible to run a viable hairdressers business within a central and sequentially preferable location. As such it is considered that the proposed use could be accommodated within the defined retailing centre of Stockton. A number of units such as 99 High Street, the Castlegate Centre and 22 Wellington Square would be subject to the above mentioned financial incentives, it remains that these are sequentially preferable sites which are suitable, viable and available sites.
32. In summary of the sequential assessment issues, Para 27 of the NPPF states that; "where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused". Taking the above into account and despite the sequential search completed, suitable, available and viable units have been identified within Stockton Town Centre and that the scheme therefore fails to satisfy the criteria of the NPPF, the extant Practise Guidance or LPA's outstanding concerns regarding the impact of the out centre retailing on the vitality and viability of the town centre (including committed, planned investment in the town centre). It is also considered that the proposal would set an undesirable precedent for future out of centre retailing proposals to circumvent the requirements of the Sequential Approach, and taken cumulatively, such out of centre uses could further impact upon the vitality and viability of defined retail centres.

Impact Assessment

33. The NPPF states that "when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m.). This should include assessment of:
 - *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made".
34. Policy S2, also referred to by the Council, relates to major retail development. Notes to the policy indicate these amount to 2500 sq.m. much greater than those considered for this application. As Policy S2 does not set a locally specific impact threshold, the policy would only require an impact assessment for development in excess of 2,500sqm. An impact assessment is therefore not required in this instance and any trade diversions cannot be quantified.
35. It is also important to note that the Council has produced a Town Centre Prospectus (March 2011), which whilst not a formal planning document, sets out the Council's aspirations for the

Town Centre and includes £38m planned investment into the town centre, works of which are currently being undertaken. As such, any proposals need to be considered in the wider context of this planned investment and what the resultant harm would be. It is considered that by allowing the current application, based on the submitted information, it would set an undesirable precedent for other out of centre uses and contribute both individually and cumulatively to diluting the vitality and viability of the Town Centre. Concerns have also been expressed by the Council's Development and Regeneration department regarding the impact of this out of centre proposal on town centre vitality and viability and feel that there are suitable alternative town centre premises for this development.

36. Therefore serious concerns remain regarding the impacts on the vitality and viability of the defined retail centres and on the Council's on going aspirations to regenerate the Town Centre (including committed, planned investment in the town centre) and in aims of achieving sustainable development. Given that there is neither an exceptional circumstance nor identified need, or other justified circumstances that overcome these policy issues and that the scheme is considered to fail the tests of the sequential approach and the development is considered to be contrary to both local and national planning policies. This would therefore warrant a refusal of the applicant.

Site Sustainability

37. The application site is an existing commercial unit within Preston farm Industrial Estate which is characterised by office buildings. Part of the unit (adjoining the south of the application site) operates as a Greggs bakery which was allowed on the basis that it provided a service for the workforce of the surrounding office buildings. Therefore it is subject to control by condition to prevent any other retail use operating at the site.
38. The closest bus route to the site is approximately 1500 metres from the application site with a cycle path on the opposite side of Bovesfield Lane, 60 metres from the application site. Comments made by supporters of the application site regarding the proximity of the cycle path are noted. However, given the nature of the proposed hairdressers it is considered that clients visiting the proposed use are unlikely to travel by bicycle. It is also noted that there are no residential properties within the immediate vicinity of the application site that would be within a short walking distance and easily served by the proposal. In view of the distances involved between large areas of housing and the current application site along with the nature of the highway network serving the site, it is considered unlikely to be attractive to users of the site to travel by either foot or cycle and unlikely to result in any meaningful grouped trips with the nearby defined retailing centres.
39. Taking the above into account it is considered that the site forms an unsustainable location, thereby being contrary to Core Strategy policy CS2(1) and the guidance within NPPF. Such a stance has been reiterated by a Planning Inspector within an Enforcement Appeal decision along Portrack Lane (APP/H0738/C/12/2172372). The Inspector, taking into account the provisions of the NPPF concluded;
- "When compared with town centre sites, where there is better choice and access to public transport, the appeal site is not in a highly accessible location. The location does not, therefore, fully accord with the aims of both national and local plan policy".
40. In view of the above considerations including the relevant appeal decision, it is considered that the current site has 'limited sustainability' as the use would place a high reliance on the private motor car, would lead to an increase in unlinked trips and an undesirable contrary to the provisions of CS2 and NPPF.

Other considerations:

41. National Planning Policy Framework seeks to promote a focus on new economic growth and development of main town centre uses within existing centres, with the aim of offering a wide range of services to communities in an attractive and safe environment with a principal objective to sustain and enhance the vitality and viability of town centres. Support comments in favour of the application are acknowledged and it is noted that the proposed use will provide employment with associated economic benefits. The application form states that the proposed use will require 10 members of staff. Whilst it is noted that the proposal will generate investment in the area and create jobs thereby meeting the social and economic roles of sustainable development, Officers remain of the view that this would not outweigh the planning policy considerations above. Particularly as there are considered to be suitable units available in more sequentially preferable sites, in Stockton Town Centre, it is not considered that the economic benefits would outweigh the need for sustainable development which supports the vitality and viability of defined retailing centres.
42. However, in view of the above considerations, it is considered that the use results in a town centre use in an out of centre location without robust justification. Furthermore, it is considered that by allowing the current scheme, would set an undesirable precedent which would make it difficult to refuse other similar applications, the cumulative effect of which would be to adversely affect the vitality and viability of the Stockton Town Centre contrary to the provisions of Core Strategy Policy CS5 and the provisions of the NPPF. This view is supported by the enforcement appeal decision for the furniture store on Portrack Lane which was also dismissed by a further Planning Inspector (APP/H0738/C/12/2172372, decision dated 17th August 2012). The Inspector concluded

"I have also given significant weight to the matters relating to relative rental costs; economic growth generally and employment in relation to this particular proposal. I have also noted the points raised about the future of the existing premises. However, none of these matters carries sufficient weight to change my conclusion on the main points at issue and nor is any other factor of such significance so as to alter my decision.

Impact on the character of the area;

43. Owing to the predominantly commercial nature of the surrounding area and that the scheme includes no significant external alterations it is considered that the scheme will not have an adverse impact on the visual amenity of the surrounding area.

Impact on the amenity of neighbouring occupiers;

44. The scheme lies within a largely commercial area and in an area which currently has permission for commercial operations. The Council's Environmental Health Unit has raised no objections to the scheme. The development is therefore not considered to have a significant impact on the amenity of the neighbouring business.

Access and Highway Safety;

45. The Head of Technical Services has raised no objections to the scheme commenting that sufficient car parking provision is provided. It is therefore considered that the scheme will not lead to an adverse impact upon highway safety.

CONCLUSION

46. Whilst there are no significant concerns regarding the impacts upon the amenity of neighbouring land users, character of the surrounding area or highway safety, significant concerns remain over the detrimental impacts on the vitality and viability of the defined retail centres. Equally any economic and social benefits of the scheme such as job creation and employment along with supporting comments are duly noted. However, these are not

considered to be sufficient to outweigh the harm that would arise to the vitality and viability of the defined retail centres.

47. As detailed above there are considered to be sequentially preferable sites across the Borough's retail centres that are available and could accommodate the proposed use, with a degree of flexibility from the applicant in their proposed business model. There are also a number of incentives which have been put in place to encourage businesses to locate within the town centre and approval of the proposed A1 use in this out of centre location is considered to result in a detrimental impact upon the vitality and viability of the town centre (including committed, and planned investment in the town centre). Taking an approach to approve the business outside of the defined retail centre would also create and set an undesirable precedent for future out of centre retailing proposals and taken cumulatively, would further impact upon the vitality and viability of the defined retail centres across the borough. In addition the application site is not particularly well served by alternative modes of transport such as public transport, walking or cycling and is considered to be an unsustainable location, which would place a high dependence on the private motor car.
48. It is for these reasons that there is significant conflict with the guidance within the National Planning Policy Framework, the adopted Stockton on Tees Core Strategy and the saved policies of the Stockton on Tees Local Plan, consequently the proposed development is recommended for refusal.

Corporate Director of Development and Neighbourhood Services
Contact Officer Mrs Helen Heward Telephone No 01642 526063

WARD AND WARD COUNCILLORS

Ward Parkfield and Oxbridge
Ward Councillor Councillor M Javed & Councillor David Rose

IMPLICATIONS

Financial Implications.

Section 143 of the Localism Act and planning obligations as set out in the report.

Environmental Implications.

As report.

Community Safety Implications.

Section 17 of the Crime and Disorder Act 1998 has been taken into account in preparing this report and it is not considered the proposed development would not be in conflict with this legislation.

Human Rights Implications.

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report and the proposed development will not contravene these human rights.

Background Papers.

Stockton on Tees Core Strategy
Stockton on Tees Local Plan
National Planning Policy Framework (NPPF)
Planning Applications 03/2006/P & 08/1477/COU