

DELEGATED

AGENDA NO
PLANNING COMMITTEE

15 JANUARY 2014

REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

13/2685/COU

137 High Street, Yarm, TS15 9AY

Change of use from A1 (Retail) to A3 (Restaurant) and installation of flue to rear

Expiry Date 6 January 2014

SUMMARY

The application seeks for change of use of the eastern ground floor unit and first floor rear room of 137 High Street, Yarm (Winpenny House).

The building is grade II listed and situated within the Yarm Conservation Area.

Objections from neighbours have been received in regards to potential impact on amenity from noise, nuisance and general disturbance.

It is considered that amendments made to scheme by the applicant have addressed the concerns of neighbours and any outstanding concerns can be controlled by planning condition or other legislation.

The application is considered to comply with planning policy, will not have an undue impact on the amenities of neighbouring properties and is recommend for Approval with conditions.

RECOMMENDATION

That planning application 13/2685/COU be approved subject to the following conditions and informative 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>
130999	19 December 2013
SBC0001	24 October 2013
001	8 November 2013
EXTRACTION DETAILS	11 December 2013

Reason: To define the consent.

02. Use of the yard

The rear yard area shall not be used by customers or employees for eating/drinking or smoking purposes and shall be only used as an emergency exit in the event of emergency and for refuse storage purposes and for no other purpose.

Reason: - to define the consent

3. Closure of rear doors

The rear doors of the ground floor unit shall be kept closed whilst the restaurant is open to customers and only used by customers in the event of an emergency.

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

4. Bin store

Before the restaurant use hereby approved is brought into use a bins store shall be provided in accordance with approved plan? The bin store shall be kept in a tidy condition for the life of the development.

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

5. Opening hours

The restaurant to which this permission relates shall not be open for business outside the hours of 9am and 12.00 am and the premises vacated by 1am.

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

6. Grease Trap

Before the restaurant use hereby approved is brought into use a drainage system to the premises shall be provided with a suitable grease trap so as to prevent the discharge of grease into the public sewer.

Reason: - To achieve a satisfactory form of development

7. Extraction

Before the restaurant use hereby approved is brought into use an appropriate the ventilation and extract system shall be provided.

The ventilation and extract system shall be operated and maintained in accordance with the manufacturer's recommendations, including the frequency of replacement of any filters. The system shall have adequate odour abatement provided to deal with the types of food cooked in order to prevent odour complaints from adjoining premises.

Reason: - To ensure a satisfactory form of development

8. Construction Hours

All construction operations including delivery of materials on site shall be restricted to 8.00 a.m. - 6.00 p.m on weekdays, 9.00 a.m. - 1.00 p.m. on a Saturday and no Sunday or Bank Holiday working.

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

INFORMATIVE OF REASON FOR PLANNING APPROVAL

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

BACKGROUND

The application has caused concerns with residents that works are already taking place at site. The Historic Buildings Officer and Planning Enforcement Officer have visited the site and found that none of the works as carried out would have required planning permission or listed building consent.

Concern has also been raised that a first floor window has been removed this is unfounded and the existing sash window remains in place. There are currently a number of unauthorised signs on the frontage of the building that are being investigated by the planning enforcement team.

SITE AND SURROUNDINGS

The application site is Winpenny House, 137 High Street Yarm a grade II listed building situated in the Yarm Conservation Area.

The property is a substantial building, 3 storeys in height with several businesses operating across all floors of the building. The property is a mixed commercial area in the District Centre of Yarm with residential properties opposite and to the rear.

The property to which this application relates is currently a vacant ground floor unit on the east frontage of the property previously in use as Arts Bank galleries.

Other businesses within Winpenny House include Henderson Opticians which is south of the unit on the ground floor and separates the unit from Low Church Wynd. The upper floor businesses are accessed via a central communal stair and include at first floor Kyle Travel Agents, Euphoria Boutique, and at second floor Tattoo Parlour Inkhaus Tattoo and re-Nu Beauty Salon.

To the west are the residential properties No's 1 and 3 Low Church Wynd. Two storey traditional cottages and a modern detached double garage that back directly into the yard of the application site. Further west is an area of car park and the residential town houses 5-15 Low Church Wynd with Yarm viaduct beyond.

PROPOSAL

The application seeks change of use of the ground floor unit of 137 High Street and the rear first floor room from use class A1 to A3 (restaurant) "The Purple Pig" and installation of a flue to the rear.

The applicant states that the proposals are for a modern, contemporary, casual dining experience and that the business would employ 5 full time and 2 part time staff.

The application proposes to use the ground floor of the unit as restaurant and the rear room of the 1st floor as a kitchen. The upper floor room proposed to be a kitchen is currently accessed by the communal stair. The intention is to seal this room from noise and smells by blocking up the existing doorway.

The kitchen will become only accessible from a proposed internal spiral stair to link the first floor kitchen with the dining room/bar and toilet facilities below at ground floor.

Subsequently the unit will operate as a self-contained restaurant with its own High Street access, without using the central communal stair which available to the other businesses in the building.

CONSULTATIONS

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

Development and Regeneration

Although approval of this application would mean a further loss of A1 Retail and would add to the amount of frontage dedicated to A3 on the High Street, we would welcome this investment as this reflects a continued confidence in the Town Centre. Albeit a focus on Night Time Economy activity can potentially weaken the reason for people to visit a diverse business mix during the day, we believe any such impact would be mitigated in this particular location.

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.

- Drainage - grease trap

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

- Odour nuisance

The ventilation and extract system shall be operated and maintained in accordance with the manufacturer's recommendations, including the frequency of replacement of any filters. The system shall have adequate odour abatement provided to deal with the types of food cooked in order to prevent odour complaints from adjoining premises.

Informatives

I also have concerns regarding some issues that will be dealt with under other legislation and as these may impact on this Planning application I would make the following informative comments relating to this application:

- The Rear Yard Area

Licensing conditions prevent the use of the rear yard by customers except for as an emergency exit route. The emergency exit route must be kept clear and not obstructed, such as by refuse storage containers, whilst the premises are in use in order to comply with Fire and Health and Safety legislation.

- Opening Hours

Environmental Health have no objection to the requested closing time of 1.00am, however, at the recent Licensing Committee Hearing the premises was granted a license to operate until only 12.00hrs and the applicant is reminded that compliance with both Licensing and Planning controls is required.

- Access to the First Floor Kitchen

Environmental Health would recommend that the spiral staircase be used in conjunction with a dumb waiter in order to prevent the manual handling of liquids and other hot substances up and down the staircase. However, should the application be approved with only the spiral staircase as access to and from the kitchen, it shall be subject to a stringent risk assessment process and controlled through Health and Safety Legislation. The applicant is advised that if the arrangement is considered unsatisfactory Environmental Health would issue a prohibition notice under the Health and Safety at Work Etc. Act 1974 which would effectively close use of the kitchen.

- Smoking Area

Due to the restricted use of the rear yard at the premises by customers under the Premises Licence, smokers will be directed to use the front of the building if they wish to smoke. This raises some concerns, particularly regarding potential use of the front lobby area. However, this will be dealt with under separate Smoke Free Legislation.

Head of Technical Services

Highways Comments

Public car parking is available close to the site; there are no highway objections.

Landscape & Visual Comments

This proposal has no landscape or visual implications.

PUBLICITY

Neighbours were notified and 11 letters of objection received are set out below :-

EUPHORIA BOUTIQUE

Winpenny House (1st Floor) 135/137 Yarm High Street

Our shop has been opened not even a year and has cost us a lot to set up and buy Couture Dresses, Jewellery and Shoes.

We are not concerned that a bar/restaurant is opening down stairs but what I am concerned about is that the kitchen is being installed in a 'store room' next to our dresses.

This obviously brings a lot of problems. They need to cross our landing to get into their kitchen. The smell on our dresses, the noise from the kitchen, waste, people coming up and down stairs, security with the front door being opened all day and night. There is no toilet upstairs for their staff as the toilet is ours. Vermin problems. Fire hazard.

The ladies that come in our shop love the quiet environment where we can sit and chat there are often ladies trying on dresses so it's not really appropriate to have the kitchen there at all.

We have already had to endure a kitchen being installed, banging, sawing etc when consent hasn't even been given!

Mr Geoffrey Bunn

The Hollies Church Road

I am the owner/landlord of 1 Low Church Wynd and my property backs directly onto the rear courtyard that may be used for an external eating , drinking and/or smoking area .

This development is totally unacceptable to me , as my property has a kitchen window and a bedroom window that face into the courtyard and I do not want my tenants to have to see , hear or smell whatever may be happening in the courtyard potentially till 1:00am .

I strongly feel that this development will make my property much more difficult to let and ultimately devalue it.

Mr Edward Kyle

Kyle Travel 135 - 137 High Street

Kyle Travel Services are located on the first floor of Winpenny House and our entrance door is situated directly opposite the kitchen proposed by Mr Emadi. Whilst I have no objection to the ground floor restaurant, I do object strongly to the kitchen being situated on the first floor as the smell of food is bound to circulate and this could put off clients visiting our travel agency.

Although they plan to install a 'Dumb Waiter' for food to be passed down to the restaurant, this will not prevent staff travelling up and down stairs with dirty plates, etc., which again will be off putting for clients and could result in accidents occurring in what is a narrow staircase. I am also concerned about the security aspect to our business as it is possible members of the public may gain access to the property when we are closed. Also, if people have too much to drink and gain access to the interior, the corridor and staircases may be used for other purposes.

I am also concerned about the increased fire risk should a kitchen be installed on the first floor, bearing in mind that there is only ONE entrance and exit to the building.

The letter received from Stockton Borough Council notifies us of an application for the installation of a flue to the rear of the property but does not mention the first floor which I understand was originally intended for use as a store room.

During a meeting with Mr Emadi and the other business users, he went to great lengths to assure us that he wanted to work with us and come to an amicable arrangement. However, the following day, he instructed workmen to remove the window of a Grade 2 Listed Building without consent and install a flue in the first floor store room in preparation for a kitchen. This is in spite of the fact that we have until the 4th December 2013 to comment or raise objections.

Mrs Sarah Johnson

Suites 201 To 202 135 - 137 High Street

I run my Beauty Salon business from the 2nd floor above where this kitchen is going to be installed.

* The smell of food is going to spread throughout the whole of the building especially in the public stairway which my clients use constantly all day long.

*I do not believe this public stairway is suitable for staff to be coming up and down with rubbish/food/plates etc. and I am concerned about safety and the possible risk of an accident happening to one of my customers.

*I am now more concerned about the fire risk to my business as I feel the installation of a kitchen is going to increase the chance of a fire and worry how I would get myself and my customers out from the 2nd floor.

*I am concerned about the changes that are going to be made to this grade 2 listed property that has been here for many years as already changes have been made (before this consultation period has ended) such as installation of the flue to the 1st floor and a removal of an original window

*I am worried about the increase of noise from banging plates, cooking etc and restaurant noise and how this will affect my business as my customers enjoy coming to me to relax and enjoy peace and quiet. This I feel will be detrimental to my business.

*Litter is going to become a problem with food waste and I am concerned about attracting vermin around the building.

Mr Craig Huckins

135 High Street Yarm

We wish to object on behalf of Inkhaus Tattoo to the proposed application (App No. 13/2685/COU) to change 137 High Street, Yarm from A1 Retail business class to A3 Restaurant business class. We also wish to object to the proposed flue to be installed upstairs to the rear of the building. Our reasons for this objection are detailed in the points that follow.

We are strongly concerned that the proposal to make the second floor storage room into a kitchen for the restaurant will create an increased fire risk for the building. Winpenny House is a 17th century listed building and as such may be more at risk of fire than a more modern building. There is only one entrance/exit for those of us renting upstairs and our windows would not be large enough to evacuate from in the event of a fire.

We are also concerned about the hygiene issue of the proposal to carry food downstairs to the restaurant and empty plates upstairs to the kitchen. The stair well of this building is a communal area for all businesses and any dropped food could attract vermin, which would affect all of the businesses in the building in a highly detrimental way. Indeed, if this proposed restaurant attracted vermin, which could jeopardise our licence as a tattoo studio. In addition to this, increased mess in the stair well could be off-putting for customers coming up the stairs especially those coming up to our tattoo studio, where cleanliness is paramount. Additionally, the proposed kitchen on the second floor would increase foot traffic in the communal area of the building from the restaurant staff. At busy times, the restaurant staff would most likely be in a rush and there would be a high risk with them colliding with our customers on the stairs. The communal stairs will also be the only way for the restaurant to take in deliveries. We are concerned about the hygiene of this since it is the same stairwell in which our clinical waste collectors use to remove our business waste.

Another strong concern with the proposed kitchen on the second floor is the risk of noise pollution. Our work as tattoo artists and piercers involves precision and concentration and a large increase of noise in the building could be seriously detrimental to our work. Our piercing treatment room is actually above this proposed kitchen and we have already noticed a considerable increase in noise as this room has started to be fitted out. When we first took on the lease for our own unit, we considered how much external noise there would be in the building and opted to open our business here because the noise in the building was minimal. It is doubtful that we would have taken on a unit above a busy restaurant kitchen if that is what had already been established below us.

Including a restaurant kitchen on the second floor will also mean that the restaurants staff will have access to the building until 1am. Mr Emadi has assured us that members of staff would lock the door behind them, however, we are aware that there is a high risk of this being overlooked. We would be concerned that the public could gain access to the building after hours and that thefts or damage could take place. Although we are obviously insured as a business, any crimes of this nature would be highly damaging to our ability to work. There would also be a risk of members of the public using the corridors for nefarious purposes if they could gain access on a night.

On a more general note, we feel that allowing the business class of this unit (and subsequently the upstairs store room/proposed kitchen) to be changed from A1 to A3 would be detrimental to Yarm High Street as a whole. Winpenny House is one of few affordable units that can allow small businesses to start up and entrepreneurs to flourish. Yarm already has a high number of bars and restaurants, with fewer shops. The death of the high street is a concept that has been given a lot of media attention during this recession, but we do believe that fewer shops on a high street as small as Yarm could be detrimental to it as a whole. As somebody who has lived in the area all of their life, this is something that I would like to prevent wherever possible.

Without seeking permission, Mr Emadi has removed a c19th century sash window from the rear of this grade ii listed building, prior to this planning application being processed and without the consent of the building's owner.

The above states a number of highly important reasons why we oppose this change of business class use. It must be noted, however, that we feel that this proposal may already have done damage to our business due to a decrease in footfall while building work has been taking place. We believe that this is due to the increase in mess and noise in the building, as well as power being inconsiderately switched off during our working day. Since the mere fitting out of this

proposed restaurant has caused so much grief and upheaval, we do not have high hopes for this changing if the planning application were to go through.

Mr Joshua Hawthorne

3 Low Church Wynd Yarm

My partner and I wish to object to the proposed change of usage at Winpenny house from A1 to A3 in addition to the proposed installation of a flue to the rear.

Living adjacent to, and directly overlooked by the yard via two windows at ground level, the use of this area for the proposed purposes would result in a huge adverse effect on the residential amenity of us as neighbours by reason of total loss of privacy and direct overlooking.

Having applied for a license until 1am, 7 days a week and with the rear yard proposed at an area for eating and drinking, this change of usage would have an acute negative impact upon us (and the other residents of Low Church Wynd and surrounding areas) in the following ways:

Anti-social behaviour/crime-

The proposed hours of the restaurant/bar are highly unsociable, with an increased footfall there would be an increase in noise, litter and urinating within the surrounding area (something which we currently suffer from only during the fair and much less frequently at weekends).

Back land development-

Use of the rear courtyard would affect us in a huge way. We have 2 windows, single glazed, which overlook the courtyard at ground level in both our kitchen/living room and our office (in which I work from home 2 days a week). The intrusive use of the area would clearly impact us on a daily basis through the creation of noise, smell and associated disturbance.

Car parking issues-

Parking is already at a premium in Yarm and nowhere more so than in Low Church Wynd; there is limited residents parking which everyone works hard to share, however there is no surplus parking for patrons of a proposed new establishment.

Close proximity-

This has been covered above, however I would like to reiterate the fact that our windows are single glazed with both our property and Winpenny house lying within a conservation area. I invite representatives from the council to come by to see the negative impact that the change in licence would have upon us as neighbours.

Creation of litter-

Mentioned above; there would also be the difficulty of removal of waste from Winpenny house, which would cause issues to the front of the property, not least for residents of Low Church Wynd through reducing visibility at the junction and resulting in increased risk when entering/exiting.

Devaluation of the property is likely to occur if the proposed restaurant is approved; again a result of all of the negative impacts listed herein.

Area unsuitability-

The area is residential and highly densely populated; therefore unsuitable for a development of this type. Winpenny House along with many of those surrounding it (our home included) are protected historical buildings and the proposed changes (some of which have already been carried out, without consent) are not in keeping nor are they sympathetic to this classical architecture.

Loss of light-

There would be a significant loss of light within our property as a result of the proposed changes. Given the age of our home there are limited windows to allow natural light; a large proportion of our

windows are to the rear of the property and overlook the courtyard, which is earmarked as an area to be used for eating and drinking (possibly smoking?).

Loss of privacy-
Acute, as previously discussed.

We feel that the other reasons listed, means of access, noise, residential amenity, smell/fumes, traffic and visual impact, have all been addressed above.

We welcome representatives from the council to visit our home to see for themselves the acute negative impact that this change of usage would have upon us as neighbours and members of the public.

Additional comments received the 21st Dec:-

Our objection relates to the location of the proposed bin store; which is directly adjacent to our kitchen and study windows. This is on the grounds of the aforementioned reasons (namely the health concerns of having large unsanitary bins/food waste so close to our kitchen and to office (in which I spend a large portion of my working life) and the smell/fumes associated. We also object on the basis of the high likelihood that the bins will attract rats and other vermin so close to the area in which we cook and eat. There is also the issue of the noise that would be caused by the placement of a bottle bin here (which would be used at very unsociable hours). The proposed usage of the rear yard would further serve to affect our property by means of devaluation, loss of privacy, visual impact and residential amenity. We are also confused by the emergency exit to the rear of the property, patrons leaving the property by this exit in the event of an emergency would be trapped in a closed courtyard. Clarification of this would be appreciated.

Ms Claire Vassallo
120A High Street Yarm

My house is directly opposite the proposed business.

I object strongly knowing that this will have a detrimental effect on the following:

1. The value of my property.
2. Personal privacy, my front windows look directly at these premises.
3. Security, my property already suffers from late night drunks leaving glasses and bottles on the window sill and urinating in the passage way.
4. Noise and disturbance.
5. Increase in cars and vans parking on the Keep Clear outside thereby blocking my access to the private courtyard where I keep my car.

Mrs Mary Hall
5 Low Church Wynd Yarm

My husband and I object to this planning application on the same grounds as stated in our representation regarding the current licensing application on this property. As Winpenny House backs directly on to the quiet residential cul-de-sac of Low Church Wynd we have several major concerns regarding this application to change its current commercial retail usage to that of a restaurant.

The rear aspect and rear yard access of the property links directly on to the residents private car park and communal area as well as bordering the rear of several homes. If the proposed licenses are granted, allowing seven days a week opening with the supply of alcohol on and off the premises, late night refreshment and recorded music from 9am to 1am and live music/films to 11.30pm, there will be a significant negative impact on all the residents of Low Church Wynd.

Our main concerns regarding the planning application for change of use from A1 (Retail) to A3 (Restaurant) and installation of flue to rear are as follows:

1. Prevention of Public Nuisance

Noise pollution will be an inevitable consequence in this normally very quiet residential area. This will arise from patrons drinking and dining in the rear yard and any music be it recorded, live or on film. Noise will also arise from staff clearing up well after the 1am closing time and using the rear access/ and yard for refuse disposal, particularly as there is no area for refuse storage at the front aspect of the property.

There is also the likelihood of increased refuse and littering in Low Church Wynd as a consequence of the use of the rear yard and access.

There will be potential for significant odours with kitchen ventilation to the rear of this terraced property in addition to the proposed use of the rear yard for dining and presumably as a smoking area.

Public nuisance will also be caused by the issues highlighted in points 2 and 3 below.

2. Prevention of Crime and Disorder

Increased non-resident footfall directly through the private cul-de-sac and car park could lead to car and property damage particularly if this is combined with the risk of drunken and antisocial behaviour.

3. Public Safety

There is no off-road parking at Winpenny House. The increased and regular delivery of restaurant supplies will cause obstruction to the entrance to Low Church Wynd or its car park and reduce the visibility at the junction with the High Street. This will pose an increased risk to the safety of both pedestrians and road users.

4. Protection of Children from Harm

Many of the above points including increased non-resident footfall, drunken and antisocial behaviour and road safety issues impact on child safety within Low Church Wynd.

This objection also applies to the associated planning applications 13/2735/ADV and 13/2686/LBC currently submitted for the same property.

Mr Mike Scallon

10 Low Church Wynd Yarm

In respect of the recent application for change of use from a shop to a restaurant with extended hours in the old Platinum Gallery on the high street. This backs on to the densely populated properties in Low Church Wynd with what looks like access directly into the Wynd. The application it looks like it is for a restaurant with a live music licence opening to 1am at the weekends.

With the obvious potential for a beer garden/smokers garden at the rear this could lead to levels of noise being channelled into the Wynd (by the built up walls around the building rear and the bridge,) not witnessed before and which are not suited to this residential neighbourhood.

There is also the possibility of noisy bottle bins/banks and food waste bins which could be positioned in or near the Wynd itself as there is a rear entrance at the top left corner.

In the summer with rear doors or windows open it is possible that any music or sounds of a busy restaurant will carry into the Wynd. The effect of the channelling and amplifying of noise by the built up buildings and the bridge can be similarly witness at the rear of the Blackbull, or the Union arms currently. The rear of these premises do not have as many residential properties in such close proximity

Along with the already restricted parking in the Wynd which could be under pressure from patrons, the loading and unloading at the front of the premises, (which has no parking and double yellow lines) this will add to difficulty in navigating in and out of the Wynd through restricted vision, as we currently experience on a much more limited basis during day light hours.

There is also the potential for further antisocial behaviour from increased late night traffic up and down the Wynd. This could be on the increase if this change of use is approved.

After 6pm this is a quiet residential area of the town, with very dense residential housing. We would want it to remain that way.

Mr Iain Wallace
12 Low Church Wynd Yarm

I am writing in connection with the above planning application. I have examined the plans. I wish to object strongly to the development of the change of usage at this location.

Anti-social behaviour is becoming more prevalent in Yarm location of the property proposed has a high degree of residential buildings near to it that have never had night time activity in the area. Where residential properties have been developed around existing establishments this is not the case with this location consideration needs to be given to the impact on residents with-in this area. This proposed location is part of a quieter area of Yarm which does not need a entertainment outlet. It would be better for the area to remain retail, for example local family businesses, bakeries and those selling fresh products.

Car Parking.

The highways department have commented there is public parking available. This is an incorrect statement parking in Yarm is always at a premium & there is several issues of problems around Low Church with other businesses restricting access to lane. Vehicles Park in the bus stop & restrict visibility along the high street. Cars park adjacent to Bang & Olufson, causing issues of entry & exit to the lane these have been reported to the police & hi-ways department on numerous occasions.

Close Proximity.

The restaurant & proposed use would obviously have an impact on the amenity to enjoy my property. On the planning application there is no mention of the application of use of the rear courtyard for dining & drinking as is proposed on the licensing application with music/ films till 11.30 seven nights a week. The impact of such an activity within an enclosed courtyard on to a quadrangle of residential properties would have a significant noise issue on the area.

Means of Access

The property has very restricted access to the rear for removal of refuse. Complaints have already been made to the council of the Wheelie bins being constantly being kept in the lane by other businesses. There is no frontage to the building for delivery this is already a problem with businesses in Winpenny house & the location of restaurant that would require much more frequent deliveries which would increase the problem & exasperate the situation. The pedestrian footpath to the front of the property would be restricted by customers entering & leaving the premises, but unlike other licensed establishments on the high street pedestrians would have to step out on to the road to walk around the patrons.

Noise

This has been mentioned in close proximity in association with the premises itself. There would however be residual noise from people entering & leaving the premises. In an area that is quite quiet presently.

Smell/ Fumes

The plans show the flue rising to an elevation of the just above the roofs eaves, due to the courtyard construction of the houses in Low Church Wynd & that most the houses are of three storey the fumes & odours from the flue could cause a significant problem. The flue would have to be constructed to the ridge level to allow full dispersion.

Traffic/Highways.

Some of The traffic issues have been mentioned in car parking as to entry & access to Low Church Wynd. To further comment on delivery, a significant number of delivery vehicles park in front of Winpenny house partly on the road. This severely restricts visibility to the left & results into having to turn off Low Church Wynd on to the High street into oncoming traffic blind, frequently motorbikes & cyclists are travelling alongside the traffic with a potential for a serious accident to increase the frequency of deliveries would be a cause for concern. They would also be an increase in taxi activity of pick up & drop off at the front of the premises The hi-ways department should be looking at installing posts an issue I intend to pursue with them.

This objection also applies to the associated planning applications 13/2735/ADV and 13/2686/LBC currently submitted for the same property.

Mr Howard Clarke

8 Low Church Wynd Yarm

This is a predominantly residential area with some daytime retail and office premises. The change of use will constitute a public nuisance and fundamentally change the character of the area because of: 1.noise emanating from the rear of the building especially in the evenings 2.public health issues relating to the storage of food waste and odours emanating from to the rear of the building 3.Anti-social behaviour from clients exiting via Low Church Wynd. 4 Road safety issues along Low Church Wynd- a mixed pedestrian and vehicle thorough fare

PLANNING POLICY

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

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

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 1 (CS1) - The Spatial Strategy

1. The regeneration of Stockton will support the development of the Tees Valley City Region, as set out in Policies 6 and 10 of the Regional Spatial Strategy 4, acting as a focus for jobs, services and facilities to serve the wider area, and providing city-scale facilities consistent with its role as part of the Teesside conurbation. In general, new development will be located within the conurbation, to assist with reducing the need to travel.
2. Priority will be given to previously developed land in the Core Area to meet the Borough's housing requirement. Particular emphasis will be given to projects that will help to deliver the Stockton Middlesbrough Initiative and support Stockton Town Centre.
3. The remainder of housing development will be located elsewhere within the conurbation, with priority given to sites that support the regeneration of Stockton, Billingham and Thornaby. The role of Yarm as a historic town and a destination for more specialist shopping needs will be protected.
4. The completion of neighbourhood regeneration projects at Mandale, Hardwick and Parkfield will be supported, and work undertaken to identify further areas in need of housing market restructuring within and on the fringes of the Core Area.
5. In catering for rural housing needs, priority will be given to the provision of affordable housing in sustainable locations, to meet identified need. This will be provided through a rural exception site policy.
6. A range of employment sites will be provided throughout the Borough, both to support existing industries and to encourage new enterprises. Development will be concentrated in the conurbation, with emphasis on completing the development of existing industrial estates. The main exception to this will be safeguarding of land at Seal Sands and Billingham for expansion of chemical processing industries. Initiatives which support the rural economy and rural diversification will also be encouraged.

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

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.
2. All major development proposals that are likely to generate significant additional journeys will be accompanied by a Transport Assessment in accordance with the 'Guidance on Transport Assessment' (Department for Transport 2007) and the provisions of DfT Circular 02/2007, 'Planning and the Strategic Road Network', and a Travel Plan, in accordance with the Council's 'Travel Plan Frameworks: Guidance for Developers'. The Transport Assessment will need to demonstrate that the strategic road network will be no worse off as a result of development. Where the measures proposed in the Travel Plan will be insufficient to fully mitigate the impact of increased trip generation on the secondary highway network, infrastructure improvements will be required.

3. The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide. Further guidance will be set out in a new Supplementary Planning Document.

4. Initiatives related to the improvement of public transport both within the Borough and within the Tees Valley sub-region will be promoted, including proposals for:

- i) The Tees Valley Metro;
- ii) The Core Route Corridors proposed within the Tees Valley Bus Network Improvement Scheme;
- iii) Improved interchange facilities at the existing stations of Thornaby and Eaglescliffe, including the introduction or expansion of park and ride facilities on adjacent sites; and
- iv) Pedestrian and cycle routes linking the communities in the south of the Borough, together with other necessary sustainable transport infrastructure.

5. Improvements to the road network will be required, as follows:

- i) In the vicinity of Stockton, Billingham and Thornaby town centres, to support the regeneration of these areas;
- ii) To the east of Billingham (the East Billingham Transport Corridor) to remove heavy goods vehicles from residential areas;
- iii) Across the Borough, to support regeneration proposals, including the Stockton Middlesbrough Initiative and to improve access within and beyond the City Region; and
- iv) To support sustainable development in Ingleby Barwick.

6. The Tees Valley Demand Management Framework will be supported through the restriction of long stay parking provision in town centres.

7. The retention of essential infrastructure that will facilitate sustainable passenger and freight movements by rail and water will be supported.

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

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.

9. The reduction, reuse, sorting, recovery and recycling of waste will be encouraged, and details will be set out in the Joint Tees Valley Minerals and Waste Development Plan Documents.

Core Strategy Policy 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 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:

- 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.

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

Saved Policy EN24 of the adopted Stockton on Tees Local Plan

New development within conservation areas will be permitted where:

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

Saved Policy EN26 of the adopted Stockton on Tees Local Plan

Alterations, extensions and changes of use to listed buildings will be permitted where the proposals are in keeping with the character and appearance of the original building, and its architectural or historic interest is not adversely affected.

Saved Policy S8 Alteration No 1

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

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

MATERIAL PLANNING CONSIDERATIONS

1. The main considerations of the application area the principle of the development in this location, the impact of the change of use on the character/appearance and significance of

the listed building; the impact on the amenities of neighbouring properties including the wider impact on the amenities of the Yarm Conservation Area and highway implications.

Principle of Development

2. The application site is located within Yarm district centre as such policy S8 of Alteration No 1 applies which looks to maintain the vitality and viability of defined retail centres. The first criteria in Policy S8 sets out that there are two calculations to be applied and both are necessary, it states it is the greater of these which determines whether the proposed use is acceptable or not under this policy. The first criterion requires that there will there be no more than 4 non-retail units adjacent to each other. The adjacent units to the south are Bang and Olufsen and Henderson Opticians (both A1 retail uses). To the north is Tax Assistant accountants and David Kelly Associates (both A2 uses) then Yarm DIY (A1). Consequently the Change of use to restaurant would not result in more than four continuous units being outside of an A1 retail use. The proposal therefore complies with this element of the policy.
3. The second calculation to be made under policy S8 criteria is whether the proposal would result in a total of 15 metres continuous non-retail frontage being created whichever is the greater. The combined total of Tax Assist frontage and the frontage of 137(which are the only two continuous non retail units) would not exceed 15 metres in length being approximately 12m.
4. As such it is not considered that the proposal would increase the amount of non-A1 frontage on the High Street to an unacceptable degree and is therefore considered to be acceptable with regard to this criterion of policy S8.
5. In light of this it is also accepted that the proposal will not result in more than 60% of the frontage being in non-A1 retail use.
6. Therefore it is not considered that it would harm the attraction to retailers as the unit would still be considered to be viable as a retail unit. In addition the unit proposes to use a small first floor rear room as part of the proposed restaurant use. This is a small unit which in its own right, hence the proposal will not undermine the usage of the upper floors of the building. It is therefore considered that the proposal complies with policy S8 of Alteration No 1.
7. Policy CS5, paragraph 3 of the Stockton on Tees Core Strategy states that Yarm will continue to function as a district centre and proposals which support Yarm's niche role in offering higher quality comparison shopping, together with leisure and recreation will be supported providing that the residential mix is not compromised.
8. The proposed change of use is considered to satisfy the requirements of policy S8 of Alteration Number One to the Local Plan and it is considered that the proposed change of use will not result in a detrimental impact upon the vitality and viability of the retail centre and will not affect residential mix.
9. Additionally, if the building was unlisted, under the Government's current prior approval procedure the Change of Use could occur for a period of up to 2 years without the need for planning permission. This permitted development right does not apply to listed buildings. However, this new prior approval procedure underpins the drive of the NPPF to allow for sustainable development and to reduce unnecessary burdens on businesses looking to invest and start up new ventures and support the aims of economic development.

10. As such the principle of the change of use is in this locality considered to be acceptable for the reasons outlined above subject to the proposal satisfying other material considerations as set out below.

Impact on listed Building

11. An accompanying application for listed building consent (application 13/2686/LBC) will consider the impact of the proposals on the fabric of the grade II listed building. Winpenny House is a building divided into separate business units with a main central stair servicing all of the units.
12. The application proposes a spiral stair case from the ground floor unit to the first floor kitchen to link the spaces and to create a standalone unit. This additional spiral stair enables the kitchen to be fully compartmented for fire/building regulation issues and to prevent any undue nuisance from smells/noise.
13. Winpenny House is a building of circa 1700. 3 Storeys in high with a stuccoed frontage. The roof was raised in C19 and the fenestration is of C19 the central door way is a modern insertion. The application unit is of an open floor plan with a stepped front to rear room, with a single storey rear extension housing the toilet facilities with a double access door into the rear yard. A spiral stair is proposed centrally to the building to the rear room.
14. The floor joints where the spiral stair case is proposed are modern timbers and are not an original part of the 1700 construction. These would have to be altered to accommodate the new staircase however as no historic fabric will be impacted this alteration is considered to be acceptable.
15. The works to the first floor kitchen include insulation works and ventilation. These are additional works that are removal alterations. The rear room is of a limited size and has no historic architectural features and the doorway is a modern stud partition. The application proposes to seal this doorway with stud work which is acceptable in listed building terms as no historic fabric will be impacted. In order to create a sealed room the existing arch headed window will be boarded from the inside however this is a reversible alteration and will not adversely impact on the construction of the window.
16. The application also proposes a rear flue to ensure appropriate ventilation and extraction system from the first floor kitchen. This will exit through the back wall of the kitchen go across the existing flat roof and end above the eaves of the first floor on the rear north elevation. The flue will not be particularly visible from the wider surroundings of Low Church Wynd.
17. There are other listed building with flues in the conservation area such as found at the Cross Keys and these are removal structures should the proposed use cease. The impact on the historic fabric of the building by fixing the flue through the wall will be limited and is not considered sufficient to warrant the refusal of the application on listed building grounds.
18. It is therefore considered that the impact on the listed building as a result of the physical proposals is acceptable and will not adversely affect the significance of the grade II listed building.

Impact on neighbouring properties

19. There have been a number of neighbours' concerns raised in regard to the change of use. These concerns relate primarily to noise, odour, nuisance, security of the building, parking problems and increased fire risk.

20. There are a number of residential properties to the rear of the premises on Low Church Wynd. Low Church Wynd due to its form and sheltering provided by the nearby Viaduct is a tranquil location in Yarm and very peaceful, with no through highway traffic and low footfall. In comparison to the other Wynds in Yarm residents here enjoy perhaps a greater degree of undisturbed amenity.
21. Nos 1 and 3 in particular back directly into the yard of the application site with the rear walls of these properties forming the southern boundary of the yard. The windows on this elevation are predominantly obscurely glazed and number 3 Low Church Wynd also has a single storey extension and balcony facing northwards towards the yard at the far end of the yard.
22. Beyond this there is the car park area for Low Church Wynd and residential townhouses nos 5-15 Low Church Wynd to the west. To the north is the commercial property Tax Assist Accountants.
23. As there are a number of points raised by neighbours these are explored in turn:

Odour and Noise

24. The premise is an existing commercial unit within a High Street location. Yarm High Street is characterised by commercial properties with often adjoining residential properties. It is a town centre location where a degree of noise and nuisance is to be expected.
25. The applicant has amended the application to include an internal spiral stair. This is to allow the unit to operate as an independent unit which is not reliant on the communal central staircase for access.
26. This also enables the kitchen at first floor level to be a sealed room with a flue and ventilation system to ensure no adverse impact in terms of smells or odour nuisance to neighbouring properties and other businesses in Winpenney House. Although the flue will be partially visible from neighbouring properties it is considered that this would have limited visual impact. The room will be insulated to building regulation standards to ensure no adverse noise transmission to neighbouring units. This kitchen area is a small room measuring 4.3m by 3.5m therefore due to the nature and limited scale of the proposal the opportunities for noise are limited.
27. The Head of Environmental Health has commented on the application and raises no objections to the proposal but does recommend the imposition of appropriate conditions to ensure adequate controls are in place.
28. Opening hours can be controlled currently the applicant has a licensing approval to open until 12am and it is concerned that the planning permissions should reflect the licence.
29. In addition issues of nuisance and use of Low Church as a result of the change of use are unfounded. The property is intended as a family restaurant and there are other such facilities already within the district centre of Yarm. It is not considered that the change of use would result in any worsening of the current situation which is in a town centre location.

Use of the Yard

30. There is no intention to use the outdoor yard area as a seating area for customers. Confusion has arisen as this was initially included as part of the licensing application put forward by the applicant. However, this is not included as part of the change of use application and use of the yard was subsequently withdrawn from the licensing application and the license restricts the use of the yard for this purpose. Much of the neighbour concerns have related to the potential use of the yard by customers.
31. There is a proposal to site a bin store in the rear yard area of the property. However, this is an existing commercial unit and the yard area could be used for bin storage without the need for planning permission. For example the unit could open as a food shop with food waste storage without requiring planning permission. A bin store is proposed in the rear yard area against the northern boundary wall which is a high wall with no openings. Therefore it is not considered that the creation of the bin store would cause any undue harm to the residential amenity of the neighbouring properties.
32. The properties 1 and 3 Low Church Wynd back into the yard with both ground and first floor windows. The impact on these neighbours from using the yard for eating and drinking purposes would be unacceptable and is unlikely to be supported in planning terms. For clarity a planning condition shall be placed on any approval to ensure that this area cannot be by customers for any purpose without the necessary planning consent.
33. In addition the unit also has a set of double doors to the rear of the restaurant. To prevent these being opened during unsociable hours and potentially causing noise and disturbance to neighbouring properties a planning condition ensuring they are kept shut during restaurant opening hours is considered necessary in this instance to ensure no adverse impact on amenity of adjoining residential properties.
34. As the yard will not be used for restaurant purposes except for refuse storage, it is not considered there would be any undue adverse impact on the amenities of adjoining neighbouring properties as a result of the change of use.

Access issues

35. A separate access by means of the proposed spiral stair allows the restaurant to operate as an independent unit which will not to utilise the central stairwell hence issues of nuisance and noise concerns relating to the use of this stairwell will be avoided.
36. The unit has its own entrance at the central splayed entrance therefore security to the rest of the building will not be an issue.
37. The restaurant will be largely opening in the evening hours with the other business uses in the building being predominantly day time uses. Therefore the opportunity for conflict and nuisance to other business uses in the building is limited.

Fire risk

38. Increased fire risk from the kitchen being located at first floor is unsubstantiated. Building Regulations are required for the works and the building control department will consider the application and also consult with the fire authority to ensure all necessary requirements are put in place.
39. It is not considered that the neighbouring businesses in Winpenny House or beyond would be adversely impacted by the change of use with the proposed odour nuisance and noise controls in place. Furthermore it is not considered that the change of use would have an

undue adverse impact on the neighbouring residential properties on Low Church Wynd for the same reasons outlined above.

Highway and traffic implications

40. Winpenny House has no incurtilage car parking. The Head of Technical Services has commented on the proposal and raises no objection.
41. There is public car parking available in the High Street and many of the businesses and residential properties within Yarm High Street do not have dedicated car parking and are reliant on public car parking for both staff and visitor parking.
42. Neighbours are concerned that the change of use may lead to unauthorised car parking on the High Street and along Low Church Wynd. However, Low Church Wynd is protected by no waiting at any time on both sides and unauthorised parking can therefore be enforced.
43. This is an existing commercial unit and it is not considered that the change of use of the unit will exacerbate any existing parking or highway issues.

Residual matters

44. Concerns have been raised that the applicant is carrying out works without consent- The Historic Buildings Officer and Planning Enforcement Officer visited the premises and the works taking place would not require an application for listed building consent. The first floor window was in situ but is boarded internally to create the sealed kitchen, this is a reversible alteration.
45. Restaurant fit out works are undertaken at the applicants own risk should planning permission for change of use not be forthcoming. There has been no breach of planning control.

Vermin

46. Issues have been raised regarding potential vermin, this is an issue that can be controlled through appropriate good housekeeping and environmental health legislation and is not a planning consideration.

Devaluation of property

47. Devaluation of property is not a material planning consideration.

Bin Emptying

48. Questions have been raised to the issues of bin emptying as a shed is currently located in the rear access yard. The building agent has provided information that states that the applicant has an established right of access across the back gate from Low Church Wynd Car park and that the shed will need to be removed. This is a civil issue and subject to appropriate bin storage being provided this is not a material planning consideration.

CONCLUSION

49. The concerns of neighbours are noted. However it is considered that the application complies with planning policy and is not considered to have an adverse impact on the significance of the listed building; or give rise to an unacceptable impact on the amenities of

