

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE:  
8 APRIL 2015  
REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**15/0224/VARY**

**331 - 343 Norton Road, Norton, Stockton-on-Tees**

**Application to vary condition no.11 (opening hours) of planning approval 13/1721/REV (Revised application for the replacement of existing buildings with 3 retail units) to extend the opening hours of unit 1 from 8:30am to 9:30pm all days of the week (inc. bank holidays) and Unit 2 from 8.30am to 11.00pm all days of the week (inc. bank holidays) and unit 3 from 7am to 11pm all days of the week (inc. Bank Holidays).**

**Expiry Date: 26 March 2015**

**SUMMARY**

Permission was granted under delegated powers (application 13/1721/REV) for the demolition of an existing block of commercial / residential properties and replacement with 3 retail properties. The scheme included the provision of a car park and servicing area to the rear. Planning and Environmental Health Officers considered that provision of customer parking to the rear of the site could result in significant and undue impacts on the amenity of nearby residents whose properties back onto this area and sought to limit opening hours of the shops, thereby limiting use of the car park (7am to 9pm Mon. – Sat. and 7am to 8pm Sunday and bank holidays).

The applicant advised that the units were commercially undesirable due to the limited hours of opening and two applications have since been submitted to vary the opening hours to allow the units to open up until 11pm. Both of these applications were refused to prevent undue noise and disturbance to nearby residents in the early / late hours which was the basis of imposing the condition in the first instance. In reaching these delegated decisions officers took into account the benefits of the scheme to the area although were of the opinion that protecting residential amenity outweighed these benefits in this instance.

This current application also seeks to vary the opening hours of the units, splitting the hours across the three units (Unit 1 - 8.30am to 9.30pm, Unit 2 - 8.30am to 11.00pm, Unit 3 - 7am to 11pm). The application has been submitted with a supporting statement which reflects the details submitted with earlier applications. The applicant has sought to make a case that there are already noise generating uses in the local area although these are more associated with Norton Road and the front of the site rather than the rear where increased noise would be more notable. Furthermore, this proposal would add to the existing impacts of these existing commercial premises.

Whilst there is already a parking area to the rear of the application site, this is limited in size and serves 10 apartments. Traffic numbers and movements are therefore likely to be particularly limited by comparison to those that would be serving the approved retail units.

In approving the initial application, Planning and Environmental Health officers considered that as much flexibility as was reasonably possible was exercised to allow the application to be approved but in doing so, considered it necessary to give respite to nearby residents from some of the

impacts that the proposal would result in. It is considered that even with the controlling conditions, daily deliveries and movement of staff and customers would have a notable increase in noise and disturbance to residents in the surrounding area to their detriment but this could be balanced by the site circumstances and the limitation of opening hours. The Councils Environmental Health Unit Manager previously raised concerns that noise from the development will cause significant disturbance to local residential premises and remains to be of this opinion.

Six letters of support have been received and are detailed and considered within this report, although do not add sufficient argument to outweigh the concerns over impacts of the proposed variation of hours.

## **RECOMMENDATION**

**Planning application 15/0224/VARY be Refused for the following reason**

- 01. *In the opinion of the Local Planning Authority, the extension of opening hours for the approved scheme of retail units would result in increased use of the associated car park to the rear of the premises which would result in increased noise and disturbance within that area in close proximity to residential properties which would take place at unsociable hours when residents are reasonably entitled to expect peaceful enjoyment of their homes and respite from the approved scheme and its associated car park. As such, the proposed variation is considered to be contrary to the requirements of Saved Local Plan Policy S15 (iii) of the Stockton on Tees Local Plan and the National Planning Policy Framework (Core Principle Paragraph. 17 and Paragraph.123).***

## **BACKGROUND**

The planning history for the site is as follows;

90/2254/P

Erection of 10 flats and associated parking, Land off Napier Street, Stockton  
Approved with conditions including parking to be provided and maintained.

91/0760/P

Sub division of ground floor shop to form off licence and hot food takeaway.  
Refused 21st June 1991.

02/2008/P - Change of use to betting shop and installation of new shop front.  
Approved 9th January 2003.

04/2196/COU

Change of use from offices to first floor flat.  
Permitted Development 26th July 2004. (unknown if implemented).

12/0248/FUL

Application for the erection of 4 retail units.  
Refused under delegated powers on the 1st February 2013 for the following reasons;

### *Lack of parking provision*

*The proposed development provides insufficient parking for existing residents and to service the retail premises being proposed with no allocation for customer parking. In the opinion of the Local Planning Authority this lack of parking will place a continual pressure for customers of the retail*

development and residents of existing houses in Napier Street and any visitors to these properties, to park their vehicles on the highway within the immediate surrounding area. It is considered that the extent of parking likely to be associated with 4 retail units operating through the day, 7 days a week in a location along a well trafficked highway and bus route into Stockton, would cause notable obstruction and result in an unacceptable detrimental impact on the free flow of traffic and highway safety along Norton Road as well as having a detrimental impact on existing residents within the area whom already have a reliance in the surrounding area for on street parking. The proposal is therefore considered to be contrary to National Planning Policy Framework (para. 58), Stockton on Tees Core Strategy Development Plan Policy CS2(3) (Sustainable Transport and Travel) and the associated Supplementary Planning Document SPD 3 (Parking Provision for Developments).

#### Servicing arrangements

*In the opinion of the Local Planning Authority, the servicing arrangements for the site are constrained to a degree which would limit off street servicing options for the retail units in an area where no other available options are evidenced as being achievable to service the units. It is considered that this arrangement would result in service vehicles utilising the highway / hardstanding area to the front of the proposed retail units which would have a detrimental impact on highway safety and the free flow of traffic on Norton Road, being contrary to National Planning Policy Framework (para. 58).*

#### 13/1721/REV

Revised application for the replacement of existing buildings with 3 retail units. Approved on the 31st March 2014 with conditions imposed in respect to; Approved Plans, Restricted opening hours, Restricted servicing hours, Installation of boundary treatments, Rear customer Access, Cycle stands, Residents Parking, No additional net floor space or grouping of units, Highway Works, Breeam Rating, Building Recording, Lighting to the rear of the premises, Construction Noise, Materials

The condition restricting opening hours was worded as follows;

*The premises to which this permission relates shall not be open for business outside the hours of 7am to 9pm Monday to Saturday and 7am to 8pm on Sundays and Bank Holidays.*

*Reason: To limit the extent of noise and disturbance from the development taking into account its position in respect to residential properties, in accordance with the requirements of Saved Local Plan Policy S15 (iii) and NPPF (para.123).*

#### 14/1384/VARY

Application to vary condition 6 (opening hours) of planning approval 13/1721/REV (revised application for the replacement of existing buildings with 3 retail units) to allow units to be open from 7am to 11pm all days of the week including Bank Holidays

Refused for the following reason

#### Impact on residential amenity

*In the opinion of the Local Planning Authority, the extension of opening hours for the approved scheme of retail units would result in increased use of the associated car park to the rear of the premises which would result in increased noise and disturbance within that area in close proximity to residential properties and which would take place at unsociable hours when residents should be able to expect a greater level of amenity and respite from the approved scheme and its associated car park. As such, the proposed variation is considered to be contrary to the requirements of Saved Local Plan Policy S15 (iii) and the National Planning Policy Framework (Core Principle para. 17 & para.123).*

#### 14/2899/VARY

Application to vary condition no. 11 (opening hours) of planning approval 13/1721/REV (Revised application for the replacement of existing buildings with 3 retail units) to extend the opening hours of unit 1 from 8:30am to 9:30pm all days of the week (inc. bank holidays) and Units 2 and 3 from 7am to 11pm all days of the week (inc. Bank Holidays).

Refused for the following reason:

Impact on residential amenity

*In the opinion of the Local Planning Authority, the extension of opening hours for the approved scheme of retail units would result in increased use of the associated car park to the rear of the premises which would result in increased noise and disturbance within that area in close proximity to residential properties and which would take place at unsociable hours when residents should be able to expect a greater level of amenity and respite from the approved scheme and its associated car park. As such, the proposed variation is considered to be contrary to the requirements of Saved Local Plan Policy S15 (iii) of the Stockton on Tees Local Plan and the National Planning Policy Framework (Core Principle Paragraph. 17 and Paragraph.123).*

## **SITE AND SURROUNDINGS**

1. The site falls within an urban area, on a main thoroughfare into Stockton. The street scene is mainly characterised by historic period properties laid out in terraces, although some more modern commercial buildings lie adjacent to and offset from the site.
2. The existing properties within the application site are somewhat dilapidated and have areas to the rear which are partially unused and unkempt. The site includes 10 flats on Napier Street which are laid out as a relatively modern 2 storey terrace.
3. The existing units appear to provide a mixed use of a Bookmakers (A2), a retail shop (A1), two residential properties and a vacant premises.

## **PROPOSAL**

4. Planning permission is sought to vary a condition of application 13/1721/REV restricting the hours of opening for the retail units. The condition allowed for the shops to open for business between the hours of:
  - 7am to 9pm Monday to Saturday and 7am to 8pm on Sundays and Bank Holidays.
5. This submission seeks to extend that to alter opening hours as follows;
  - Unit 1. Open between the hours of 8.30am to 9.30pm all days of the week including bank holidays
  - Unit 2. Open between the hours of 8.30am to 11.00pm all days of the week including bank holidays
  - Unit 3. Open between the hours of 7am to 11pm all days of the week including bank holidays.

## **CONSULTATIONS**

Consultations were notified and any comments received are summarised below:-

### Built And Natural Environment Manager

The Head of Technical Services raises no objections.

### Highways Comments

There are no highway objections.

### Landscape & Visual Comments

This proposal has no landscape or visual implications.

### Environmental Health Unit

I refer to your memorandum regarding the above enquiry. I would still have a number of concerns regarding this proposal and feel that this application has not dealt with the concerns previously raised.

I am concerned that noise from the site, vehicle movements and use of the rear car parking area at these extended hours may cause significant noise disturbance to residential properties that are in close proximity of the premises.

I would therefore advise against varying the currently approved opening hours of the site that form part of the application 13/1721/REV.

## **PUBLICITY**

Neighbours were notified and 6 letters of support were received as summarised below:-

### Sandan A Ayub- Balouch, 340 Norton Road Stockton On Tees

In support and pleased to see the site getting developed

### Haroon Badar, Norton Convenience Store 337 Norton Road

Support. This is another step forward in the development of the area contributing to the vision for the borough. I am sure the times are very suitable. Local people appreciate businesses will be open longer and will bring job opportunities for local people.

### Rehan Asghar, 337 Norton Road Norton

In support and hope it's done quickly.

### Douglas Wesoly-Jones, 7 Napier Street Norton

Fully in support of the proposal.

### Ken Cockburn, 8 Napier Street Norton

Strongly support late opening.

### Asim Ayub, 2 Napier Street Norton

Happy to support the variation of hours. It will be very positive for the area.

## **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.

### **Policies relevant to the approved scheme are detailed for completeness**

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

*Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.*

*The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide.*

- i. Further guidance will be set out in a new Supplementary Planning Document.*

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

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

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

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

- 8. Additionally, in designing new development, proposals will:
  - i. \_ 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;*
  - ii. \_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;*
  - iii. \_ 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**

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.

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:

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

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

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

Elsewhere, within the local shopping centres of Billingham Green in Billingham, Myton Way at Ingleby Barwick, Norton High Street and High Newham Court in Stockton, and the 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.

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.

### **Core Strategy Policy 10 (CS10) Environmental Protection and Enhancement**

9. New development will be directed towards areas of low flood risk, that is Flood Zone 1, as identified by the Borough's Strategic Flood Risk Assessment (SFRA). In considering sites elsewhere, the sequential and exceptions tests will be applied, as set out in Planning Policy Statement 25: Development and Flood Risk, and applicants will be expected to carry out a flood risk assessment.

10. When redevelopment of previously developed land is proposed, assessments will be required to establish:

- \_ the risks associated with previous contaminative uses;
- \_ the biodiversity and geological conservation value; and
- \_ the advantages of bringing land back into more beneficial use.

### **Stockton on Tees Saved Local Plan Policy S15**

Planning permission will be granted for new development or limited extensions for small scale retail use outside the Centres listed in Policy S1 provided that : -

- the proposal is within defined settlement limits, and
- the facility is intended to serve local needs only, being of a scale appropriate to the locality and being within walking distance of residential areas, and
- the proposal would not give rise to any adverse effect on the amenity of neighbouring properties or on the character of the area, and

- the proposal would not adversely undermine the vitality and viability of any village shop or retail Centre as listed in Policy S1
- Within major new residential and employment developments, where no similar facilities exist within reasonable walking distance, developers will be expected to provide an element of convenience retail development at a scale to be agreed by negotiation.
- **Centres listed in Policy S1 (Policy S1 not a saved Policy)**
  - i. Stockton-on-Tees Town Centre
  - ii. The District Centres at :
    1. Billingham
    2. Thornaby
    3. Yarm
  - iii. The Local Centres at :
    1. Billingham Green, Billingham
    2. Myton Way, Ingleby Barwick
    3. High Street, Norton.
    4. High Newham Court, Stockton
  - iv. The Neighbourhood Centres at :
    1. Clifton Avenue, Billingham ;
    2. Kenilworth Road, Billingham ;
    3. Low Grange, Billingham;
    4. Mill Lane, Billingham;
    5. Station Road, Billingham;
    6. Tunstall Avenue (Neasham Avenue), Billingham;
    7. Wolviston Road, Billingham;
    8. Orchard Parade (Butterfield Drive), Eaglescliffe;
    9. Station Road, Eaglescliffe;
    10. Sunningdale Drive, Eaglescliffe;
    11. Beckfields Centre, Ingleby Barwick;
    12. Lowfields, Ingleby Barwick;
    13. **Norton Road (north), Norton;**
    14. **Norton Road (central), Norton;**
    15. **Norton Road (south), Norton;**
    16. **Surrey Road, Norton;**
    17. The Clarences, Port Clarence;
    18. Durham Road, Stockton;
    19. Elm Tree Centre, Stockton;
    20. Harper Parade, Stockton;
    21. Hanover Parade, Stockton;
    22. Marske Parade, Stockton;
    23. Oxbridge Lane, Stockton;
    24. Premier Parade, Stockton;
    25. Redhill Road, Stockton;
    26. Rimswell Road, Stockton;
    27. Upsall Grove, Stockton;
    28. Yarm Lane, Stockton;
    29. Newton Drive (Bassleton Lane), Thornaby;
    30. Thorntree Road, Thornaby;
    31. Westbury Street, Thornaby;
    32. High Street, Wolviston;
    33. Healaugh Park, Yarm.

## **MATERIAL PLANNING CONSIDERATIONS**

6. The material planning considerations in determining this application relate to the principle of the development, the impact of the additional operating hours on the amenity of the nearby



residents and whether the original planning condition imposed to control operating hours of the shop units is still relevant and meets the statutory tests.

7. The planning history for the site details that permission was refused in 2013 for the re-development of the site with a parade of 'out of centre' shops due to insufficient parking which would result in inappropriate parking in the surrounding area and due to the servicing arrangements for the premises being too constrained.
8. A further application (13/1721/REV) was submitted to overcome these reasons for refusal which provided staff and customer parking to the rear of the shops and retained an area of residents parking which is protected by a planning condition associated with an earlier development. The scheme required service vehicles and refuse vehicles to access the rear of the shops as no suitable alternative existed to their frontage on Norton Road. In determining 13/1721/REV, Planning and Environmental Health officers considered that provision of customer parking to the rear of the site could result in significant and undue impacts on the amenity of nearby residents whose properties back onto this area as shop operating hours can commence early in the morning and continue until late into the evening with Saturday and Sunday opening. It was considered that the continual movement of vehicles and people in and out of the car park would result in car doors being closed, voices, service vehicle reversing sirens operating and other similar activity which would be likely to result in notable impact with little respite for residents. In view of these likely impacts, officers sought to restrict opening hours for the units between 7am to 9pm Monday to Saturday and 7am to 8pm on Sundays and Bank Holidays in order to limit the extent of noise and disturbance. The scheme was also submitted with no safe footpath link between the car park and the front of the shops where the customer entrances were being proposed. As such, an appropriate condition was imposed requiring customer accesses to be provided into the rear of each of the retail units which will also focus some additional noise and disturbance to the rear of the premises.
9. Application 14/1384/VARY was then submitted to alter the approved opening hours for the approved scheme to allow opening from 7am to 11pm all days of the week including bank holidays. Being submitted on the basis of there being limited commercial interest in a scheme of units with restricted opening. For the same reasons that the condition controlling opening hours was initially imposed, application 14/1384/VARY was refused.
10. A further application (14/2899/VARY) was submitted to vary the approved opening hours for the approved scheme, to allow unit 1 to open from 8:30am to 9:30pm all days of the week (including bank holidays) and Units 2 and 3 from 7am to 11pm all days of the week (including Bank Holidays). Planning and Environmental Health Officers remained to be of the opinion that this would result in use of the car park into the later hours which would unduly affect residential amenity and permission was similarly refused, having taken into account the applicants indication that the units were not receiving commercial interest due to the hours restriction.
11. This current application seeks opening hours of the units to be split as follows,
  - Unit 1. Open between the hours of 8.30am to 9.30pm all days of the week including bank holidays
  - Unit 2. Open between the hours of 8.30am to 11.00pm all days of the week including bank holidays
  - Unit 3. Open between the hours of 7am to 11pm all days of the week including bank holidays.
12. The application has been submitted with a supporting statement which indicates that the applicant is still receiving very little interest due to the restricted opening hours, and that by extending the hours the applicant will attract more interest in occupying the units, thereby

boosting the local economy and providing a service to residents. The submission highlights that the existing premises are permitted to open until 11pm all days of the week and the approved units should be able to do the same, suggesting that the extent of noise and disturbance to nearby residential properties is unlikely to be materially increased and they suggest that the proposed parking area would not increase the likely impacts already occurring as a result of the adjacent Malleable Clubs opening hours and car park operation and the opening hours of the nearby take-away. The same details were considered as part of the earlier applications whereby the applicant seeks to highlight that the area is a commercial one where some disturbance is inevitable.

13. In determining application 14/1384/VARY and 14/2899/VARY, it was considered that the existing circumstances of the properties within the application site were of some relevance, these having a much reduced retail floor area to that being provided and being dilapidated units which do not have an intensive use. The area of land to the rear is also currently in two parts, an area of residents parking (1-10 Napier Street) and an un-surfaced enclosed area. Further to this, the takeaway and social club near to the site front onto Norton Road and the associated impacts will generally be to the front and side of the application site rather than the rear where the main impacts of the approved car park serving the retail units would be located. Further to this the proposal would add to the existing impacts of the existing commercial premises and although there are commercial premises in the area, there are also many residential properties, the amenity associated with which has to be given due regard.
14. Whilst there is already a parking area to the rear part of the application site, this serves 10 apartments and traffic numbers and movements are likely to be particularly limited by comparison to those that would be serving the approved retail units which itself is likely to be more constant across the opening hours.
15. In determining the initial application planning and Environmental Health officers had reservations about parking, and servicing at the rear and considered rear access into the shops to not be an ideal situation. However, due to the nature of Norton Road, parking and servicing was not achievable anywhere other than at the rear and the road into the car park would not allow safe pedestrian movement of customers as they would be brought into conflict with vehicles entering the car park. In approving application 13/1721/REV, planning and Environmental Health officers considered that they exercised as much flexibility as they could reasonably do so to allow the application to be approved but in doing so, considered it necessary to give respite to nearby residents from some of the impacts that the proposal would result in. It is considered that even with the controlling conditions, daily deliveries and movement of staff and customers will have a notable increase in noise and disturbance to residents in the surrounding area to their detriment but this could be balanced with the circumstances and the conditions.
16. It is appreciated that restricted hours would limit the desirability of the development to future occupiers, however, in considering impacts on amenity, the problems of gaining occupiers for the units suggests that the site is not ideal for the extent and nature of development being proposed rather than it justifying a need for a relaxation of the condition. Whilst the split opening times for the units could potentially reduce the noise impacts to the rear, approving split hours, it would result in a bias of opening across units within the same parade and would create an unsatisfactory precedent of allowing a unit to operate until 11 pm which would logically then lead to applications to increase the opening times for the other two units. Notwithstanding this, there would remain to be impacts from 7am to 11pm within the car park which is the key area of concern for noise being generated. In approving the development with the restrictive hours, the council considered that they had been as flexible as possible, looking to support the scheme rather than refuse it. The proposed piecemeal compromise of the controls imposed would lead to an already identified

unacceptable impact being allowed to take place and it is therefore considered that the initial condition restrictions remains relevant, meets the statutory tests and should remain.

17. The Councils Environmental Health Unit Manager previously raised concerns that noise from the development will cause significant disturbance to local residential premises situated in close proximity, having recognised that conditions were placed on the development to limit operating hours in order to control this noise. The Environmental Health Unit Manager has maintained an objection to the scheme for the same reasons, indicating that this submission does not address the previous concerns.
18. Six letters of support have been received in respect to the proposal with comments relating to the benefits a redeveloped site will bring and the additional shopping opportunities and additional jobs that will be create all of which are considered to be beneficial. Whilst the economic benefits of the scheme are accorded significant weight reflecting the original decision to grant planning permission with conditions, it is considered that the economic benefits do not outweigh the identified unacceptable impact on the residential amenity of nearby existing and future residents.
19. It is considered that this scheme fails to meet the requirements of Saved Local Plan Policy S15 (iii) which requires retail uses in out of centre locations to not give rise to any adverse effect on the amenity of neighbouring properties or on the character of the area. Similarly NPPF (para.123) advises that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

## **CONCLUSION**

20. There are clear economic benefits from the site being re-developed, however, this needs to be balanced against the impacts of the uses and the associated hours on the surrounding area. It is considered that an appropriate balance has been found in approving the use but restricting the hours when the development was initially approved for the reasons detailed.
21. It is considered that the extension of the opening hours will result in the car park associated with the retail units being used into hours when surrounding residents should be able to expect a greater degree of peace and quiet and extending the hours would reduce the respite from the use of the car park that they would get beyond the approved hours. It is therefore considered that the proposal is contrary to Saved Local Plan Policy S15 and the guidance contained within the National Planning Policy Framework.
22. It is recommended that the application be Refused for the reason specified above.

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

## **WARD AND WARD COUNCILLORS**

Ward	Norton South
Ward Councillor	Councillor R. Cook
Ward Councillor	Councillor Eileen Johnson

## **IMPLICATIONS**

**Financial Implications:**

There are no S106 requirements in respect to the proposal and no other known financial implications for the Council relating to the scheme.

**Legal Implications:**

There are no known legal implications in determining the application.

**Environmental Implications:**

If approved, the extension of hours would adversely affect noise levels in the surrounding area, and be detrimental to residential amenity.

**Human Rights Implications:**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report. The detailed considerations within this report take into account the impacts on surrounding properties. Adequate consultation has been undertaken and due consideration taken of their individual comments.

**Community Safety Implications:**

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report. The variation of opening hours is considered to raise no notable community safety issues.

**Background Papers:**

Planning History