

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**23 SEPTEMBER 2015**

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

**14/2780/COU**

**Thompson 71 High Street, Yarm**

**Change of use from A1 unit to A3 Use and associated external alterations**

**Expiry Date 23<sup>rd</sup> September 2015**

### **SUMMARY**

Planning permission for change of use is sought from the existing A1 use to A3 restaurant use with associated alterations.

8 letters of objection were received following publicising the planning application and the objections include the change of use will harm the conservation area, noise and disturbance and loss of amenity for residents, no need for more licenced premises and no proper provision for delivers, storage of waste and dustbins

The application is considered to be acceptable in planning policy terms, will not have an undue adverse impact on the amenity of neighbouring properties. Additionally it is considered that appropriate waste collection arrangements can be put in place and that the application is acceptable in highway terms.

The proposal is recommended for approval with conditions.

### **RECOMMENDATION**

**That planning application 14/2780/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);***

<b><i>Plan Reference Number</i></b>	<b><i>Date on Plan</i></b>
<b><i>2014/44/106</i></b>	<b><i>13 November 2014</i></b>
<b><i>2014/44 I105</i></b>	<b><i>3 November 2014</i></b>
<b><i>L100B</i></b>	<b><i>6 March 2015</i></b>
<b><i>1444.2.2.101 REV F</i></b>	<b><i>4 August 2015</i></b>
<b><i>2014/44/106 REV A</i></b>	<b><i>25 February 2015</i></b>

***Reason: To define the consent.***

**2. Opening Hours**

***The premises to which this application relates shall not be open to customers outside the hours of 8am and 12 am and no customers shall be on the premises after 1.00 am.***

***Reason:- In the Interests of the amenities of the neighbouring residential properties.***

**3. Noise disturbance from New Plant**

***No development shall take place until an assessment to show that the rating level of any plant & equipment, as part of this development, will be at least 5 dB below the background level has been submitted to and been approved in writing by the Local Planning Authority. The assessment must be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 1997- "Method of rating industrial noise affecting mixed residential and industrial areas".***

***Reason: In order to safeguard the amenities of adjoining residential occupiers***

**4. Noise disturbance from vehicles servicing the premises**

***No deliveries shall be taken at or dispatched from the site outside the hours of 07:00Hrs and 19:00Hrs.***

***Reason:- In the interests of the amenities of the neighbouring residential properties.***

**5. Odour nuisance**

***Before development commences details of a ventilation and fume extraction system, including a full technical specification by a suitably qualified technical professional person, specifying the position of ventilation, fume or flue outlet points and the type of filtration or other fume treatment which shall be installed and used at the premises in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority and shall be installed before the development is brought into use and thereafter be retained in full accordance with the approved details. The approved ventilation and extract system shall be operated and maintained in accordance with the manufacturer's recommendations, including the frequency of replacement of any filters.***

***Reason:- To ensure a satisfactory form of development***

**6. Construction/Demolition Noise**

***Construction/Demolition operations including delivery/removal of materials on/off site shall be restricted to 08:00 – 18:00Hrs on weekdays, 09.00 – 13:00Hrs on a Saturday and no Sunday or Bank Holiday working.***

***Reason:-In the interests of the amenities of the occupiers of the neighboring properties***

**7. Position of flue**

***Notwithstanding the submitted details, the flue hereby approved shall be positioned no less than 1 metre above the eaves of the original building and positioned at least 2 metres away from any openable widow.***

***Reason:- in the interests of the amenities of the occupiers of the adjoining properties.***

**8. Construction/Demolition Noise**

***Construction/Demolition operations including delivery/removal of materials on/off site shall be restricted to 08:00 – 18:00Hrs on weekdays, 09.00 – 13:00Hrs on a Saturday and no Sunday or Bank Holiday working***

***Reason:- in the interests of the amenities of the occupiers of the adjoining properties.***

**9. Waste strategy**

***All waste storage, transfer and collection from the A3 use hereby approved shall be in accordance with the waste strategy submitted on the 4<sup>th</sup> of August 2015.***

***Reason:- to ensure an adequate means of waste storage and collection for the use hereby approved.***

**INFORMATIVES**

**Informative 1: Working Practices**

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions

**Informative 2: Kitchen layout**

Environmental Health comments that there are no details of the kitchen layout. They have concerns regarding food preparation from two separate kitchens and require a detailed layout of how this can be managed to comply with food safety and hygiene legislation and health and safety legislation.

**Informative 3: 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.

**Informative 4: Construction/Demolition - Open burning**

No waste products derived as a result of Construction/Demolition operations hereby approved shall be burned on the site

**Informative 5: Bin collection**

The occupier must ensure that bins are placed on High Church Wynd/High Street for the minimum of time required for collection and removed immediately after collection so as not to cause an obstruction to highway users

**BACKGROUND**

Planning permission was refused for a change of use of the premises from retail shop to restaurant in July 1996, application Number 96/0848/P- The reason for refusal was:

The lack of any on site car parking provision to accommodate the increased number of vehicles that would be generated by the proposed use would result in further traffic congestion along the High Street to the detriment of highway safety and the free flow of traffic.

## **SITE AND SURROUNDINGS**

1. The application site is 71 High Street Yarm a Grade II Listed end-of-terrace, three storey commercial property situated centrally on Yarm High Street at the corner with High Church Wynd, opposite the Town Hall.
2. The application site is unit located within the Town Centre of Yarm falling within the Yarm Conservation Area. The surrounding area is a mix of uses including residential, commercial and office. The application site is located to the west of the High Street, one of the primary routes through the Town Centre.
3. The property is in use as Thompsons travel agent at ground floor and offices above. The offices are accessed via a side entrance on High Church Wynd.
4. Adjoining on the north elevation is Reeds Renton estate agents with Artemis hairdresser above. Opposite High Church Wynd is the House clothing store with associated café.
5. Public on street car parking is available to the front of the premises and a bus stop is located to the north. Vehicle access is available on High Church Wynd and the Wynd is yellow lined and narrow in nature with the House having a side stepped entrance to the Wynd.

## **PROPOSAL**

6. The application seeks planning permission for change of use of the premises from the existing A1 use class to A3 (restaurant use).
7. The works include the installation of a flue on the north and bin store created in a rear yard of the property and accessed through the premises. Changes are also proposed to the existing modern shop front.
8. The application is accompanied by an associated Listed Building Consent (application 14/2781/LBC)

## **CONSULTATIONS**

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

### Highways Transport And Environment

#### General Summary

Subject to the comments below the Highways, Transport & Environment Manager raises no objections.

#### Highways Comments

Public car parking is available immediately outside this property and it is considered that visitor/staff parking can be accommodated there. The revised plan shows a bin collection route through a new access to the building from High Church Wynd. The new bin collection route should

enable the applicant to place bins out shortly before collection and bring them in shortly after so as not to cause an obstruction on High Church Wynd.

Informative: The applicant must ensure that bins are placed on High Church Wynd for the minimum of time required for collection and removed immediately after collection so as not to cause an obstruction to highway users.

### Landscape & Visual Comments

This proposal has no landscape or visual implications.

Additional highways comments received on the 10<sup>th</sup> of September in respect of the previous planning refusal:

With reference to the previous application (96/0848/P), which was refused in 1996 on lack of incurtilage parking, for a COU from a retail use (A1) to a restaurant (A3). This was taken into account when the Highways, Transport & Environment Manager considered the current application. However, the current application had to be considered within the context of the changes to car parking within Yarm Town centre and the NPPF which states that:

*Plans and decisions should take account of whether:*

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

The introduction of short stay parking charges and additional off-street car parking provision, within Yarm town centre, has brought about a change in parking behaviour. This has resulted in a greater availability of short stay spaces which would be available to patrons of the restaurant. The property is also in a sustainable location, with access to frequent bus services, and would benefit from some linked trips with patrons visiting the town centre for other purposes as well as visiting the restaurant.

Taking the above into account within the context of the NPPF, which represents a material change in planning policy since the previous refusal was recommended, the residual cumulative impacts of the proposed development are not considered to be severe and therefore no longer warrant an objection on highways grounds.

### Environmental Health Unit

Following recent changes to this application I am satisfied that my previous concerns regarding waste storage, transporting of waste products and the waste management plan have been adequately addressed.

I have concerns regarding the close proximity of adjoining residential premises and potential noise and odour nuisances to these properties.

If the application was to go ahead the following conditions would be recommended:

- Noise disturbance from New Plant

No development shall take place until an assessment to show that the rating level of any plant & equipment, as part of this development, will be at least 5 dB below the background level has been submitted to and been approved in writing by the Local Planning Authority. The assessment must be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 1997- "Method of rating industrial noise affecting mixed residential and industrial areas".

Reason: In order to safeguard the amenities of adjoining residential occupiers

- Noise disturbance from access and egress to the premises  
The opening hours should be limited to ensure that adjacent premises are not adversely affected by either customers using the premises or from vehicles servicing the premises at unsocial hours.
- Noise disturbance from vehicles servicing the premises  
No deliveries shall be taken at or dispatched from the site outside the hours between the hours of 07:00Hrs and 19:00Hrs so as not to cause a disturbance to residents in the vicinity of the premises.

#### Odour nuisance

Before development commences details of a ventilation and fume extraction system, including a full technical specification by a suitably qualified technical professional person, specifying the position of ventilation, fume or flue outlet points and the type of filtration or other fume treatment which shall be installed and used at the premises in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority and shall be installed before the development is brought into use and thereafter be retained in full accordance with the approved details. The approved ventilation and extract system shall be operated and maintained in accordance with the manufacturer's recommendations, including the frequency of replacement of any filters.

#### Position of flue

The flue shall be positioned no less than 1 metre above the eaves of the original building and positioned at least 2 metres away from any openable window. It is suggested that the flue is positioned internally and ran through the floors and out the roof. By housing the flue inside of the property it will help to control the noise levels which local residents may be subject to as opposed to if the flue was located outside. Anti-vibration measures should also be taken when installing when the flue to prevent vibrations disturbing local residents.

There are no details of odour control on the latest application.

1. There are no details of the kitchen layout. We have concerns regarding food preparation from two separate kitchens and require a detailed layout of how this can be managed as the application has insufficient detail regarding provision at this stage to assess this fully.
2. Potential problems with drainage systems. This would need to be controlled by the condition below:
  - 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.

If the application proceeds conditions will be required to control short term construction issues, such as those detailed below:

*Construction/Demolition - Open burning*

No waste products derived as a result of Construction/Demolition operations hereby approved shall be burned on the site.

*Construction/Demolition Noise*

I am concerned about the short-term environmental impact on the surrounding dwellings during construction/Demolition, should the development be approved. My main concerns are potential noise, vibration and dust emissions from site operations and vehicles accessing the site. I would recommend that the working hours of all Construction/Demolition operations including delivery/removal of materials on/off site shall be restricted to 08:00 – 18:00Hrs on weekdays, 09.00 – 13:00Hrs on a Saturday and no Sunday or Bank Holiday working. Should works need to be undertaken outside of these hours the developer should apply for consent under Section 61 Control of Pollution Act 1974. This would involve limiting operations on site that cause noise nuisance.

Yarm Town Council

I am writing on behalf of Yarm Town Council who are concerned that this change of use within the Yarm Conservation Area will damage an important feature of Yarm town centre and create considerable disturbance and loss of amenity to residents and users High Church Wynd and the High Street.

A major feature of Yarm is the narrow Wynds that run from the High Street. Much the best of these is High Church Wynd. It retains many original residential properties, small cottages; many lived in by local people, and new housing which has been sympathetically design, but no commercial premises.

Cars, services, emergency vehicles etc. to all of these properties, old and new, travel down the one-way Wynd from the High Street to West Street. It is also a popular pedestrian route from the many properties on West Street, for shoppers and workers who park on West Street, church goers and visitors going to St Mary's church and walkers and fishermen going to and from the riverside walk around the west of the town.

The proposed change of use would require deliveries of fresh food and beverages and the removal of rubbish through a side door to the rear of No 71, opening onto the Wynd.

The rear of No 71 where the door would open into the Wynd, is no more than 3.2m wide at this point and there is a set of steps that protrude some 0.7m into the Wynd opposite that area. Yarm Town Council cannot see how regular deliveries and waste collections could be made here without substantially inconveniencing the existing users of the Wynd.

High Church Wynd looking towards the High Street, No 71 is the last building on the left, opposite the stone steps

Deliveries to the front of the proposed restaurant are not mentioned as yet, but these would be equally unacceptable. Delivery vehicles would have to park at the bus stop, within a few metres of pedestrian crossing, opposite the turn-around at the Town Hall and the taxi stand, and move goods across the sloping cobbles.

We note from Mrs Earl's comments that she successfully appealed against an application that had been approved for a smaller restaurant in the building on the other side of the entrance to High Church Wynd. That was at No 69 which is only 3.2m away with identical access to the Wynd. Such an appeal is very unusual; for an approved change of use to be overturned on appeal is even more

unusual. Whilst we do not know the details of that appeal, might a similar appeal succeed if this application were to be approved?

We would hope that officers would see fit to send this application to the full planning committee such that a wider public debate can consider the impact of this application before a decision is reached.

#### *Updated comments Yarm Town Council*

Although the revised application acknowledges the need for bin storage the plans still do not address the other two factors of getting rid of restaurant waste and disabled access.

Both of these areas need to be addressed. There is no lift within this property which means that access for a disabled person is restricted. This further raises issues of how the staff will get from floor to floor with food and waste. Yarm Town Council would like this issue to be addressed at this stage rather than having to formally object to the application.

## **PUBLICITY**

Neighbours were notified and the application was given wider publicity through the display of a site notice and press advertisement. A total of 7 objection letters have been received from the following addresses with the main objections summarised below.

The full details of the objections can be viewed on line at the following web address <http://www.developmentmanagement.stockton.gov.uk/online-applications/>

Letters were received from the following:

1. Alan Judge , 8 West Street Yarm
2. Miss D Lunn, The Lodge Kirklevington Grange
3. Jackie Earl , 79A High Street Yarm
4. Deborah J Morrell , 1 High Church Wynd Yarm
5. Mr Craig Harrison , 1B High Church Wynd Yarm
6. Richard Fogarty , Columbus House Westwood Way
7. Derek Bonnard 8 Merlin Close Guisborough

Concerns raised relate to:-

- Noise
- Extra Traffic
- Impact on residential amenity
- Encroachment into residential area
- disturbance
- Future sale of property
- Disturbance from bins
- Disturbance from delivery vehicles
- Pedestrian conflict with vehicles on High Church Wynd
- Inconvenience to users of High Church Wynd and conflict with delivery vehicles
- Impact on bus stop from delivery vehicles
- Increased noise and antisocial behaviour, public disorder
- Fails to preserve or enhance the character of the conservation area
- Conflict with planning policy
- Proliferation of bars and restaurants



- Parking provision and congestion
- Vermin
- No existing commercial properties on High Church Wynd
- Impact on privacy
- Existing lease with no intention of disposing of interest

## **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.

Para 128 of the NPPF states;

In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Para 129 states "Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."

Para 131 states that in determining planning applications, local planning authorities should take account of:

the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

the desirability of new development making a positive contribution to local character and distinctiveness

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

#### 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

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

- i) Thornaby centre
- ii) Billingham centre

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

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

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

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

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

#### Saved Policy S8 of Alteration No 1 of the adopted Stockton on Tees Local Plan,

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 uses adjacent to 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 an unacceptable loss of residential accommodation (see Policies S10 and S11); and
- iv) the proposal would not prejudice use of the upper floors; and
- v) The proposal would not have a detrimental impact on the character or appearance of the Conservation Area or its Listed Buildings in accordance with Policies EN24 to EN28 of the adopted Local Plan.
- v) The proposals accords with other relevant Policies of the Local Plan.

#### 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.

#### Emerging Policy TC6 of the Regeneration and Environmental Development Plan Document

##### District and Local Centres

1. The Council will seek to maintain a high proportion of retail units in all District and Local Centres. Proposals for change of use away from retail (A1) will be supported if it can be demonstrated that:
  - i) the proposed use will not unacceptably harm the vitality and viability of the centre;
  - ii) the proposal does not result in the loss of a key retail unit which due to its size, location or other characteristic is an important component of the retail function of the centre;
  - iii) the proposed use results in no more than four non-retail units adjacent to each other;
  - iv) the proposal does not result in an over-concentration of one non-retail use to the detriment of the vitality and viability of the centre;
  - v) in Billingham and Thornaby District Centres, the proposal will generate significant regeneration benefits for the wider centre.

2. To support Yarm and Norton Centre's historic High Street frontages and mix of uses residential properties within and adjacent to the centres, as defined on the policies map, will be protected in that use.
3. New developments or changes of use which reduce the proportion of Yarm District Centre's frontage length in retail use below 50%, or increase food and drink (Use Classes A3, A4, A5), and nightclub uses above 20%, will not be supported.

## **MATERIAL PLANNING CONSIDERATIONS**

9. The main considerations of the application are the principle of the development including the requirements of the development plan, the effect of the change of use on the character and appearance of the area including the vitality and viability of Yarm centre. The impacts on the amenities of the Yarm Conservation area and the host grade II listed building and the impacts any neighbouring properties and highway and car parking considerations.

### **Principle of development**

10. The application site lies within the limits to development within the defined centre of Yarm. The proposal looks to change the existing retail function of the ground floor of the property to alternative commercial use as an A3 restaurant/café use.
11. Paragraph 14 (NPPF) confirms that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development and that this 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 plan without delay.
12. The application site lies within the Town Centre of Yarm and as such, similar uses are not uncommon in this location. Core Strategy Policy CS5 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
13. Further to this, Saved Policy S8 Alteration No.1 sets out the criteria under which change of use at ground level from retail (A1) will be allowed with Yarm District Centre. These are set out below;
  - 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 (whichever 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

14. The reasoned justification to Core Strategy policy CS5 states at paragraph 10.4 that “Yarm will continue to function as the third district centre, continuing to develop its more specialist niche role in providing higher order comparison goods and a vibrant evening economy.”
15. The use of the site as a restaurant is considered to support the leisure and recreation opportunities within Yarm as well as the viability and vitality of the town. The site is not currently residential and therefore will not compromise residential mix. As such, the principle of use at this site does not conflict with Core Strategy Policy CS5 and the NPPF.
16. Consideration does needs to be given to the proliferation of uses associated with Yarm’s strong evening economy, the impact on other centres in the retail hierarchy and Yarm’s ability to function as a district centre
17. Whilst there is a significant number of non-A1 units in this length of frontage, this change of use would not result in four adjacent non-A1 units or a total of 15 metres continuous non-retail frontage. Similarly, the change of use would not result in the 60% threshold referred to in Policy S8 being breached - 57% of the monitored frontages in Yarm are currently in non-A1 use, which would rise to just over 58% were this application to be allowed (survey undertaken April 2015).
18. The National Planning Policy Framework states in Paragraph 216 that weight can be given to emerging plans therefore consideration can also be given to Policy TC6 of the emerging Regeneration and Environment Local Plan. The percentage of A3, A4 and A5 use in Yarm is currently 18% (survey undertaken April 2015), which in policy TC6 20% is supported. This threshold has now been exceeded, however due to this policy currently having limited weight and the nature of the proposed business, the proposal would still be supported.
19. It is therefore considered that the proposal does comply with established planning policy and the NPPF and will not have an impact on the vitality and viability of the town centre or its ability to function as a District Centre.

#### Fallback position

20. The current government policy under part 3 Class C of the General development Procedural Order allows for change of use of A1 properties to A3 use without the need for planning permission providing the unit does not exceed 150Sqm in area.
21. Although this does not apply to listed buildings and therefore could not take place at the premises. Material weight is given that if the building as unlisted that the premises could change to and A3 use at ground floor at present without the need for planning permission and that other premises in Yarm High Street could change to an A3 use without consent under the current provisions with only prior approval of certain details of the Local Planning Authority.
22. It is therefore considered that the change of use is in principle acceptable for the reasons outlined above subject to all other material planning considerations discussed in turn:

#### Impacts on neighbouring properties.

23. There have been a number of letters of objection in relation to the change of use of the premises. The nearest residential property to the application site are the residential properties at High Church Wynd (1 A & 1B High Church Wynd) to the rear of the existing building.

24. The application site is in Yarm Town centre where there coexists residential properties and commercial in close confines and this is a historic situation and a defining characteristic of the Conservation area. As a consequence this is an area where a degree of noise and nuisance is to be expected to neighbouring residential properties.
25. The Environmental Health Unit has been consulted on the application and raises no objection to the application subject to controls on noise and nuisance in response to neighbouring properties
26. This is an existing commercial property where a degree of noise and nuisance will be experienced from customers and staff coming and going from the existing business. Subject to appropriate controlling conditions it is considered that any additional impact can be appropriately mitigated and opening hours of the premises can be controlled. It is not considered that the proposed change of use would result in any significant adverse impact in terms of noise or nuisance above and beyond the existing situation that would warrant refusal on the application on amenity grounds.
27. It is recognised that a flue is to be located on the rear aspect (north elevation of the building) and that this will be in proximity to windows of neighbouring property to the rear at first and second floor level. However, it is noted from site that these windows serve hallway areas and are not principle windows and the flue will not directly impact on these windows or the amenities of this property. This is a situation found at other commercial properties in the Conservation area and flues are necessary to ensure adequate ventilation and fume extraction to protect the amenity of neighbouring properties.
28. Additionally, the Environmental Health Unit requests controlling conditions in respect of the flue to further control this aspect of the proposal in terms of fume extraction and noise.
29. It is therefore considered that subject to controlling conditions that the proposed use is acceptable in regards to the impact on the amenities of neighbouring properties

#### Highways and car parking

30. The Highways, Transport and Environment Manager has offered comments on the proposal noting that public car parking is available immediately outside this property and it is considered that visitor/staff parking can be accommodated there.
31. It is acknowledged that there is a planning refusal for change of use of the property from a1 to A3 in 1996 and this was refused on the grounds of the lack of incurtilage car parking provision. This previous planning refusal was taken into account when the Highways, Transport & Environment Manager considered the current application. However, the current application had to be considered within the context of the changes to car parking within Yarm Town centre and the NPPF which states that:

*Plans and decisions should take account of whether:*

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

32. The introduction of short stay parking charges and additional off-street car parking provision, within Yarm town centre, has brought about a change in parking behaviour. This has resulted in a greater availability of short stay spaces which would be available to patrons of the restaurant. The property is also in a sustainable location, with access to frequent bus services, and would benefit from some linked trips with patrons visiting the town centre for other purposes as well as visiting the restaurant.
33. Taking the above into account within the context of the NPPF, which represents a material change in planning policy since the previous refusal was recommended, the residual cumulative impacts of the proposed development are not considered to be severe and therefore no longer warrant an objection on highways grounds.
34. The revised plan shows a bin collection route through a new access to the building from High Church Wynd. The new bin collection route should enable the applicant to place bins out shortly before collection and bring them in shortly after so as not to cause an obstruction on High Church Wynd. The applicant must ensure that bins are placed on High Church Wynd for the minimum of time required for collection and removed immediately after collection so as not to cause an obstruction to highway users. This can be controlled through highway and waste legislation and is not a planning consideration however can be added as way of an informative to any forthcoming planning approval.
35. In light of the comments of the Highways, Transport and Environment manager it is considered that the application is acceptable in respect of car parking and highway safety.

#### Refuse/ Waste

36. The proposed arrangements for refuse storage are in a rear yard of the premises. The existing fire escape from the premises runs to the rear of this property. Although this area is gated to a side alleyway this alleyway is not in the ownership of the property and goes over third party land.
37. Subsequently, any waste stored in the building will have to be moved internally through the premises for collection. It is recognised that High Church Wynd is a constrained access with double yellow lines to prevent parking and any bins will have to be collected from Yarm High Street to prevent storage of commercial bins on High Church Wynd.
38. The applicant has submitted a waste strategy which has been considered by the Environmental Health Unit and is considered acceptable.
39. Additionally, The Highways, Environment and Transport manager has also considered the proposed routes and method of collection. Noting that the applicant must place bins out shortly before collection and bring them in shortly after so as not to cause an obstruction on High Church Wynd. The applicant must ensure that bins are placed on High Church Wynd for the minimum of time required for collection and removed immediately after collection so as not to cause an obstruction to highway users. This can be controlled through the appropriate highway and waste legislation and is not a material planning consideration.
40. It is considered that subject to a controlling condition that the refuse storage and collection arrangements are in accordance with the submitted waste strategy that the change of use is acceptable in regards to waste storage and collection arrangements.

#### Impact on the listed building & Conservation area

41. Sections 16, 66 and 72 of the Listed Buildings Act requires the LPA to give special consideration to the desirability of preserving the building or its setting or any features of

special architectural or historic interest which it possesses and to the desirability of preserving or enhancing the character or appearance of that area.

42. Development decisions should accord with the requirements of Section 12 of the National Planning Policy Framework which notes that heritage assets are an irreplaceable resource and emphasizes that they should be conserved in a manner appropriate to their significance.
43. The proposed works are considered to be acceptable in regards to the impact on the fabric of the listed building and will relate to newer areas of the building and will not involve any structural changes. The works are therefore considered to be acceptable in this respect and are considered to accord with saved policy EN26. The application is accompanied by an application for listed building consent which will further consider the changes proposed (application 14/2781/LBC)
44. Limited external changes are proposed to the property which includes alterations to the shop front and the installation of a flue which is hidden from wider aspects of the conservation area. These works are considered to be acceptable and will not adversely impact on the character of the property in the wider street scene or the character of the Yarm Conservation Area. The proposal is therefore considered to be in accordance with saved policy EN24.

#### Other matters/planning history

45. Comments from neighbours with regard to the neighbouring decision at the House (69 High Street) being overturned on appeal as a result of their concerns by the planning inspectorate are inaccurate, there is no third party right of appeal. This application was refused by the Local Planning Authority and upheld at planning appeal. The application 06/1958/COU was refused on the following grounds:
46. *The proposed development is detrimental to the amenity of neighbouring residents as a result of noise, loss of privacy and amenity and general disturbance created by persons using the premises, in particular at a time of the day when residents in the area might reasonably expect the peaceful enjoyment of their homes. Contrary to policy GP1 of the Adopted Stockton-on-Tees Local Plan and S14 of the alteration number 1 of the adopted Local Plan March 2006.*
47. It should be noted that this application was a proposal for an outside café area in an enclosed courtyard directly adjacent to an adjoining residential property. This application was not for a change of use of the premises, as a café was already present at the House at that time. It is therefore considered that this is not a comparable situation in planning terms.

#### Existing tenant

48. The comments raised by the existing tenant in regards to the extant lease of the premises are not a material planning consideration.

#### **CONCLUSION**

49. The application is considered to accord with the requirements of the development plan; is acceptable having regard to the impact on heritage assets, highway and car parking requirements and the amenities of neighbouring properties.



It is recommended that the application be approved with conditions for the reasons set out above.

**Corporate Director of Development and Neighbourhood Services**  
**Contact Officer Mrs Fiona Bage Telephone No 01642 526271**

### **WARD AND WARD COUNCILLORS**

Ward Yarm  
Ward Councillor Councillor Ben Houchen

Ward Yarm  
Ward Councillor Councillor Elsi Hampton

Ward Yarm  
Ward Councillor Councillor Julia Whitehill

### **IMPLICATIONS**

**Financial Implications:** N/A

**Environmental Implications:** As report

**Human Rights Implications:**

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

**Community Safety Implications:**

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

### **Background Papers**

Stockton on Tees Local Plan Adopted 1997

Alteration Number 1 to the Adopted Local Plan – 2006

Stockton on Tees Adopted Core Strategy – 2010

### **Emerging**

Regeneration and Environment Local Plan – Publication February 2015.

### **Supplementary Planning Documents**

SPD3 – Parking Provision for Developments

SPD4 – Conservation and Historic Environment Folder

SPD7 - Shop Front and Advertisement Design Guide