

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**27<sup>th</sup> September 2017**

**REPORT OF DIRECTOR,  
ECONOMIC GROWTH AND DEVELOPMENT**

**17/1419/COU**

**103 - 107 High Street, High Street, Norton**

**Part retrospective application for the change of use to a health deli/café (A3) at ground floor and a personal training and fitness studio (D2) at first floor. Creation of outdoor seating areas at ground floor and first floor, installation of feature railings at first floor, installation of fire escape and flue (to rear)**

**SUMMARY**

Part retrospective planning permission is sought for change of use to D2 at first floor of 103-107 Norton High Street. Associated physical works include the creation of an outdoor seating area at ground floor, installation of railings, flue and fire escape to the rear.

The application is part retrospective in that the fitness/personal training studio is currently operating at first floor and the flue and relocated fire escape are already in place and these elements do not benefit from planning permission. The existing café/retail use at ground floor already benefits from planning approval.

The considerations of the application are in relation to the introduction of the fitness/personal training studio use at first floor level, the relocation of the fire escape access, the introduction of an external flue, feature balustrade and ground floor outdoor seating area.

There are 8 neighbour objections to the application. Whilst the concerns of neighbours are recognised, the application is considered to be acceptable in regards to the impacts on residential amenity, the impact on the amenities and significance of Norton Conservation Area and highway safety.

**RECOMMENDATION**

**That planning application 17/1419/COU be approved subject to the following conditions and informative below;**

**01 Approved Plans;**

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

<b>Plan Reference Number</b>	<b>Date on Plan</b>
<b>SBC0001</b>	<b>25 May 2017</b>
<b>17051-01</b>	<b>25 May 2017</b>
<b>17051-02</b>	<b>15 August 2017</b>

**Reason: To define the consent.**

**02. Opening Hours**

The premises hereby approved shall not be open to customers outside the hours of 6am and 9pm, with the premises vacated of customers by 10pm.

Reason:- To safeguard the amenities of the occupiers of neighbouring residential properties from noise and disturbance outside these hours.

**03. Outdoor seating area**

The external ground floor seating area shall not be open to customers outside of the hours of 10:00 - 20:00Hrs.

Reason:- To safeguard the amenities of the occupiers of neighbouring residential properties from noise and disturbance outside these hours.

**04. First floor flat roof**

Notwithstanding the approved plans, the first floor flat roof area shall not be used as a seating area by customers or staff for the life of the development.

Reason:- In the interests of privacy and amenity of the neighbouring residential properties.

**05. Deliveries**

No deliveries shall be taken at, or dispatched from the site outside the hours of 08:00Hrs and 18:00Hrs.

Reason:- To safeguard the amenities of the occupiers of neighbouring residential properties from noise and disturbance outside these hours.

**06. Music**

No amplified music will be played and any music shall be background music and played indoors only.

Reason: To protect the amenities of nearby residents from excessive noise disturbance.

**07. Noise disturbance from New Plant**

The rating level of sound emitted from machinery associated with the development shall not exceed background sound levels by more than 5dB (A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.

Reason:- To ensure a satisfactory form of development in relation to noise.

**08. Access to fitness facility**

Access for customers to the fitness studio shall be from the main High Street entrance only and not via the rear access.

**Reason:- To safeguard the amenities of the occupiers of neighbouring residential properties from noise and disturbance at unsociable hours.**

## **INFORMATIVE OF REASON FOR PLANNING APPROVAL**

### **Informative: 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 gaining additional information required to assess the scheme and by the identification and imposition of appropriate planning conditions.

## **BACKGROUND**

1. Planning permission was granted in 2013 (application number 13/0090/COU) for the change of use of the previous premises & extension to form bakery, cafe & florist at ground floor with offices and storage areas provided at first floor.
2. Planning permission was subsequently granted in 2015 (15/1376/FUL) for demolition of the existing building and erection of a new two storey building to form bakery, wine retailer and coffee house at ground floor and training rooms and associated offices at first floor. The 2015 planning permission has been implemented, the previous building demolished with a new building constructed.
3. The premises are currently operating as Neanderthals Health Deli at ground floor and Marris fitness studio operating at first floor. The fitness studio use is currently unauthorised. Additionally a galvanised extract flue has been installed on the rear elevation and the location of the fire escape differs from the 2015 approved location. The current application has been submitted to address these unauthorised elements. Only the new and currently unauthorised elements of the proposal are to be considered through this application, all other works remain permitted.

## **SITE AND SURROUNDINGS**

4. The application site is 103 High Street Norton. The property is a recently constructed two storey commercial building situated on a corner plot in the centre of Norton Conservation Area. The property has a flat roofed, single storey rear extension and an enclosed rear courtyard area bounded by high boundary walls and set to paving. A fire escape runs from first floor, across the flat roof, down a steel stair into the courtyard with fire escape route discharging on Mill Street. A bin store is provided in a segregated area of the courtyard, under the fire escape stair.
5. To the rear of the site (west) are the two storey residential properties of Dragon Court and Mill Street which sit in an elevated position. To the south are the residential properties of the High Street and associated rear gardens; to the north on the other side of Mill Street is the George and Dragon Public House which has an outdoor seating area and to east the wider Norton High Street beyond which are a mix of commercial and residential properties.

## **PROPOSAL**

6. The application is for a part retrospective proposal for change of use to a health deli/café (A3 use) at ground floor and a personal training and fitness studio (D2 use) at first floor. The mixed café and retail use of the ground floor benefits from planning consent, having been approved through application 15/1376/FUL.
7. The upper floor personal training/fitness studio use is currently unauthorised with the previous 2015 permission (15/1376/FUL) granting approval for this upper floor to be used as a training area for cookery classes, associated with the ground floor bakery element.

8. Included in the current application is the installation of a steel, feature railing/balustrade on the rear flat roof (at a height of 1m) and use of the rear outside courtyard area for customer seating purposes. It also includes the erection of a galvanised steel extract flue on the rear first floor elevation. The flue is located between a first floor window and fire exit door and discharges below the ridge line. Permission is also sought to relocate the rear fire escape which has not been constructed in accordance with the 2015 approval and is now situated closer towards the rear of number 101 High Street.

## **CONSULTATIONS**

9. The following Consultations were notified and any comments received are set out below:-

### **Spatial Planning & Regeneration**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires an application for planning permission to be determined in accordance with the Development Plan, unless the material considerations surrounding the proposal indicate otherwise. The development plan for Stockton on Tees Borough is made up of policies from the adopted Core Strategy (2010) and saved policies from the Local Plan (1997/) and Local Plan Alteration Number One (2006).

The main policies of relevance to this application are:

' Local Plan Policy EN24: identifies that the siting, design, scale and massing of the development must not affect the character and appearance of the conservation area.

' Alteration Number One S10: Local and Neighbourhood Centre policy relates to change of use from retailing to A1 use, point (iv) for Norton High Street Local Centre is of particular relevance to this application.

' Alteration Number One S14: sets out the criteria for proposals of Use Class A3, A4 and A5 development.

' Core Strategy Policy CS5: sets out the hierarchy of Town, District, Local and Neighbourhood Centres. Point 4 of this policy identifies Norton High Street as a local shopping centre where development will be 'promoted and supported provided that it complements and does not adversely impact upon the regeneration of the town and district centres' where it is in accordance with national planning policy.

The NPPF includes a presumption in favour of sustainable development which requires proposals in accordance with the development plan to be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF, or specific policies in the NPPF indicate development should be restricted.

Paragraph 215 of the NPPF states that development plans adopted under the Town and Country Planning Act should give due weight to 'relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Relevant policies in the Development Plan, as specified above, are not considered to be out of date.

Given the siting of the development in the Local Centre and recent planning approval (reference 15/1376/FUL) for the same use at this site, the Economic Strategy and Spatial Planning team have no further comments to make on this application. In addition, the determination of the application should consider other planning policies and material considerations relating to the design of the development, amenity of residents, highway impact, amongst other things.

## Highways Transport and Design Manager

### *General Summary*

Subject to the comments below the Highways, Transport and Design Manager raises no objections.

### *Highways Comments*

The amended description is noted however previous comments apply.

The proposed ground floor use is in line with those previously approved under 15/1376/FUL and 13/0090/COU and is considered to be acceptable.

Permission 13/0090/COU showed ancillary offices and staff rooms on the first floor, and 15/1376/FUL proposed to hold cookery classes on the first floor. While the cookery classes were considered to be ancillary to the ground floor use by planning officers, they were included in consideration of the application by highways. The proposed D2 use is considered to be comparable in terms of trip generation to the previously approved cookery classes; therefore no highway objections are raised.

### Environmental Health Unit

I have checked the documentation provided, and 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.

### *Noise*

#### *Noise disturbance from New Plant*

The rating level of sound emitted from machinery associated with the development shall not exceed background sound levels by more than 5dB (A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.

All external doors and windows shall be kept closed when music is being played except in the event of an emergency. Any music played within the premises shall not cause a disturbance at the nearest residential premises. Any music shall be played indoors only.

Reason: To protect the amenities of nearby residents.

#### *Noise disturbance from access and egress to the premises*

The opening hours should be limited to ensure that residential 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 of 08:00Hrs and 18:00Hrs.

### *External Areas*

Food and drink shall not be consumed in the external seating area outside of the hours of 11:00 - 20:00Hrs. There shall be no music played in the external seating area, and no use of lighting likely to cause a nuisance to adjacent premises.

### *Waste Collection*

There shall be provided at the premises containers for the storage and disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained, and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents at a time not to cause a nuisance to residential premises.

### **PUBLICITY**

10. Neighbours were notified and comments received are set out below :-

#### Mr Alan Earle - 115A High Street Norton

I feel sorry for the residents of Mill Street as if this application is approved, and knowing Stockton Council Planning, I'm sure it will be, the invasion of privacy of the local residents by the people using the first floor must be affected and as they already suffer with noise from the George and Dragon P.H. they will no doubt have to contend with noise from the outside usage of this premises. Most of what is being asked for in this application is already in place, e.g. outside seating downstairs, and the very unsightly flue, apart from the fact that the training studio has been operating for a considerable time before any decision has been made.

I object to the unreasonable opening hours of these premises.

If it is open from 6am to 9pm seven days a week and the staff arriving even earlier there must be disruption to the residents quality of lifestyle and also to the parking which is already a problem. With regard to the building design, the down pipe from the gutter discharges onto the pavement and in the winter this could be dangerous in freezing conditions. How is it that the business is operating before the application is granted? Does this show a disregard for regulations and lack of safety for clients having to enter a building site to access the premises?

#### Mrs Astrid Jean Earle - 115A High Street Norton

I feel we have been misled for many months regarding these premises. To have a bakery, flower shop, and café, was acceptable for the area but the proposed opening times for this 'change of use' will cause problems for residents in the area particularly in Mill Street. Parking is already a problem in the High Street and I can see things getting even worse.

If I had known earlier, before the gym opened, what was proposed, I would have objected most strongly.

#### Mr John Irving - 4 Thorpe Mews High Street

Can I first praise the building itself. It looks really good.

I would ask for Council Officers to undertake a parking study. A fitness business is going to mean cars coming and going to the site and it has almost no parking of its own.

#### Marie Collins - 7 Mill Street Norton Stockton-on-Tees TS20 1AB

I live at 7 Mill Street and I am writing to object against the issues that will arise over parking in Mill Street with the opening of this building. My partner has emailed with details of our concerns which I second and raise again with you now. Please see below:

Parking is already a major problem due to the high number of people who park on this road to walk down to the village itself. This problem increases at the weekend when people park to leave their car overnight or for the weekend. Now we will have an added shop/studio at the end of the road I fear none of the residents of Mill Street will be able to park due to customers. This is made worse by the opening hours being early morning/late evening. Another concern is the delivery access for the establishment. Will Mill Street be the road used? Considering it only has one route in and out

and I have been blocked numerous times during the construction stages, I am worried about access during delivery hours.

Another thing that has bothered me about this whole process is that I have not received any correspondence from the council in regards to the buildings change of use and plans. It wasn't until our neighbour notified us of the ability to comment about parking that we got in touch. I'm intrigued to know why some residents have been informed and updated throughout this process whilst others haven't. Considering this property has gone from Cafe/Bakery/Wine shop, to deli/fitness studio I feel some notification should have been given due to the change of use. We also weren't given any notice about building and construction times which is surprising due to how loud it was and how much dust/debris was created. The construction was made worse by some Sunday shifts that were being worked and the countless times I was late for work because (as mentioned above) the road was blocked from a delivery of building materials. If you asked to gain access to the main road you were treated as an annoyance.

So as not to end on an negative, I am excited about the shop/studio itself as I am happy to see Norton thriving with local businesses.

John Kirkbride - 7 Mill Street Norton

I live at 7 Mill Street. Whilst I don't have an objection to the plans for the building, I would like to flag up my concerns for parking on Mill Street once it has opened.

Parking is already a major problem due to the high number of people who park on this road to walk down to the village itself. This problem increases at the weekend when people park to leave their car overnight or for the weekend. Now we will have an added shop/studio at the end of the road I fear none of the residents of Mill Street will be able to park due to customers. This is made worse by the opening hours being early morning/late evening. Another concern is the delivery access for the establishment. Will Mill Street be the road used? Considering it only has one route in and out and I have been blocked numerous times during the construction stages, I am worried about access during delivery hours.

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So as not to end on an negative, I am excited about the shop/studio itself as I am happy to see Norton thriving with local businesses.

Mrs Karen Hallam - 2 - 7 Dragon Court Mill Street

I am the owner of number 2 and 7 Dragon Court Mill Street, Norton and am writing on behalf of myself and my two tenants. We all wish to make an objection to the proposed alternation of the planning permission to a Cafe and Gym.

During the building work our parking spaces have been used by builders during the day and when we have got to our spaces the builders block our vehicles in. What will it be like if permission was granted and the people wanting to park increases further.

The previous permission was for a retail shop which meant that people living and working in the High Street would have used the facility as well as short term parking for people outside of the area. The change of use will result in a greater influx of people from outside the area parking for a longer period of time. As Mill Street runs along the side of the premises this is where people will park. No additional parking has been proposed with this development.

There are already ample cafe facilities on Norton High Street and I feel sorry for them as eventually it will be like Yarm High Street where due to the competition they are having to reduce their prices lower and lower to try to drum up business. Harlands started off as a deli come cafe but has gone on to be mainly a cafe. Cafe Maison also started off as a dual use and is now just a cafe.

Karen Hallam,- Flats 2 and 7 Dragon Court, Mill Street, Norton

I have grave concerns about this application as we have already had problems with parking during the construction of this property let alone with the proposed change of use.

The previous use was as an off licence which meant very few cars used the property however the proposed use will increase parking and over longer periods of time.

I have my own parking spaces which have been used by the builders over the last few weeks so their customers will also use them.

I had no objection to the shop which was the previous planning permission but another cafe and using upstairs as a gym will have a great impact on an already busy high street and road.

The value of the properties in Mill Street have already been impacted by this building without further increases the level of traffic.

I do not normally complain about any planning as I think that anything that improves the High Street is of great value but not this.

Ann Carter - 5 Mill Street Norton

I would submit the following comments/objections in respect of the above application.

The front of the building is much more attractive and more in keeping with other buildings in The area. However, with respect to the above change of use, although I do hope their Businesses are a success, I have the following concerns/objections, which I am hoping they Will allay/can be overcome.

Parking on Mill Street:

I am concerned that resident parking will become even more of a problem when the café Opens and the health studio opens fully. There will then be 14 businesses operating within a Short area of approximately 0.1 mile from the Unicorn pub to Neanderthals, none of which Have designated parking for staff or customers. Please could consideration be given for the residents of Mill Street to have a resident Parking scheme introduced.

Disturbance:

I understand the licensee intends the building to be open from 6:00 am to 9:00 pm seven Days a week, which could cause disturbance to residents from cars parking, deliveries.

I'm not sure how much noise will be generated (if any), but if windows and doors are Opened, any noise from inside may be heard by neighbours living in close proximity.

From the plan submitted, the licensee is also applying for seating areas on the ground floor And the first floor which again has the potential of adding more noise.

John F. Massarella - 3 Mill Street Norton

I have no objection to the use of the shop/café at ground floor. However the new use at first floor concerns me in relation to the opening hours coupled with the parking issues. I understand from our local councillor Mr S Nelson that the personal training and fitness studio will be open from 6.00am to 21.00pm. This area already has extreme problems with competition for parking spaces making it difficult at times to exit Mill Street to the High Street. I believe therefore adding more vehicles for such an extended period of time will only exacerbate the problem.



Mr Raymond Carter - 1 Mill Street Norton

I wish to object to this proposal for a change of use. The above will bring more unwanted traffic and parking into Mill Street and the High Street at the moment this is a huge problem. This will mean the residents of Mill Street and Dragon Court will have to suffer more traffic up and down street. I believe the premises will open from 6am to 9pm every day of the week. So what time will deliveries start?

Mr Daniel Allinson - 99 High Street Norton

I object to the proposal as follows.

Parking is already an issue in and around the high street. I live in number 99 (two doors down from the new building) and there have been issues with parking even in the building stages with my car being blocked in and having to ask people to move in order to be able to get in and out. If there are fitness classes running, presumably with minimum 10 people per session, there will be (in this example) 10 cars trying to park near the fitness studio. On top of already difficult parking conditions this will cause a major nuisance and access issues for those living close by, as I do.

At 6:20pm tonight I was sat having my tea and what can only be described as loud 'thuds' and bangs approximately 4/5 seconds apart, with shudders to the walls started to happen. I was confused at first as to what the noise was so I went and spoke to my neighbour and confirmed it wasn't him making the noise. As I was outside I could hear it was coming from the fitness studio upstairs. This continued for around 35 minutes. For it to be this loud and to shake the walls is completely inappropriate and a disturbance to my peace whilst in my home. Why is it that the classes have started before the responses of those living closest to the building in the application have been considered? Are these views not valid or recognised - has the go ahead been given and I am expected to just live with the nuisance it causes, the disruption to access and inappropriate noise levels in my home? If as proposed the classes are to run late into the evening and as the business gets busier this will inevitably get worse and cause greater problems for myself and other local residents.

I feel it's underhand to get the building built under one proviso and then to change the use of the building now that it's up and functional. To start the fitness classes before a decision has been made on whether it should be allowed seems wrong to me (I don't profess to be an expert but surely that's what this process is for, to determine if the facility should be allowed to be a fitness studio or if those that already live nearby will suffer from such an installation?). As classes have already happening, how is this process fair on local residents? I would have objected if this application was submitted originally, had it been proposed how it is now. My objection in this case is on the grounds of distinct lack of parking for such a facility, inevitable problems accessing my home due to the lack of appropriate parking & noise nuisance, which tonight I experienced first hand.

**PLANNING POLICY**

11. 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

## **National Planning Policy Framework**

12. 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.

## **Local Planning Policy**

13. The following planning policies are considered to be relevant to the consideration of this application.

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

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

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

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

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

8. Additionally, in designing new development, proposals will:

\_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;

\_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;

\_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;

\_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

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

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.

#### Saved Policy S10 Alteration No.1

Proposals for change of use from retailing (Used Class A1) within the defined boundaries of the Local and Neighbourhood Centres identified on the Proposals Map will be resisted, unless it can be demonstrated that : -

- i) The character, vitality and viability of the Centre will not be adversely affected as a retailing centre;
- ii) Reasonable efforts have been made to market the premises for retail uses;
- iii) It is appropriate in scale and function to the Centre;
- iv) With specific reference to Norton Local Centre –
  - 1) There is no detrimental impact upon the residential amenity of the Centre in accordance with Policy S11;
  - 2) There is no loss of, or detrimental alteration to, a building or feature of historic, architectural or archaeological interest;
  - 3) There is no loss of its historic character and appearance, and no detrimental impact on the visual and architectural character of Norton Conservation Area

#### Saved Policy S14 Alteration No.1

Proposals for Use Class A3, A4 and A5 'Food and Drink' development will be permitted in the defined retail Centres listed in Policy S1, where the proposal is in accordance with the following retail locational policies:-

- 4) Within the defined Local and Neighbourhood Centres, subject to Policies S10 and S11;

Proposals for all Use Class A3, A4 and A5 uses will be considered against the following criteria:-

- i) the level of traffic generated and the provision of parking facilities, both in terms of highway engineering considerations and the general amenity of the area;
- ii) any adverse impact of proposals on residential amenity in terms of smell, noise, litter fumes and disturbance;
- iii) the provision of adequate and effective fume extraction and filtration equipment;
- iv) the provision of facilities for litter within and adjoining the premises;
- v) the secure provision for trade waste, stored in an out of sight location;
- vi) where appropriate, conditions limiting the late night opening may be applied

#### 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

### **MATERIAL PLANNING CONSIDERATIONS**

14. The main considerations of the application are the requirements of the development plan, the impacts on the host property and wider street scene, the impacts on the Norton Conservation Area, the impacts on the amenities of neighbouring properties and highway implications.
15. Whilst neighbours have voiced support for the physical improvements to the property and support for new business, there have been 8 letters of objection to the application (given that only one objection can be received per property address under the scheme of delegation) specifically in regards to parking associated with the development, noise and nuisance issues associated with the fitness studio use including hours of operation.

#### Principal of Development/ Requirements of the Development Plan

16. At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through decision making. For decision making this means approving development proposals that accord with the development plan without delay and

where the development plan is absent, silent and 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 the framework indicate development should be restricted

17. Local and national planning policy aims at directing new retail and other appropriate town centre development towards existing centres where vitality and viability can be enhanced and where the proximity of businesses facilitate competition and maximises the opportunity to use modes of transport other than the car.
18. Planning permission exists for the ground floor of the premises to be used as café/retail space as this was granted in 2015 through application 15/1376/FUL. The previous use proposed an overall focus of bakery/florist/wine sales and associated training/office space. The focus of the current applicant is as a café/ deli with a health and fitness focus. Whilst the bakery use is no longer included at ground floor, the retail sales element remains and the current operation at ground floor reflects the approved planning use.
19. The upper floor fitness studio/personal training studio is unauthorised with the 2015 permission granting approval for this upper floor to be used as a training area for cookery classes (B1 use). This element of use is unauthorised and neighbours have expressed concerns that this has occurred without the necessary permissions in place. However, the applicant has been forthcoming with information and the current application seeks to regularise the use.
20. Core Strategy Policy CS5: sets out the hierarchy of Town, District, Local and Neighbourhood Centres. Point 4 of this policy identifies Norton High Street as a local shopping centre where development will be 'promoted and supported provided that it complements and does not adversely impact upon the regeneration of the town and district centres' where it is in accordance with national planning policy.
21. Additionally, Norton High Street is a designated Local centre as set out in Alteration No 1 of the Stockton –on-Tees Local Plan. The wider context of Norton is a bustling local centre where there is a mix of commercial and residential uses used both locally and by visiting customers. Saved Policies S10 and S14 of Alteration No1 deal specifically with the change of use from retail A1 use and the introduction of new A3, A4 and A5 uses. Whilst the fitness studio use does not strictly reflect these policies the general policy implications are considered to apply. In particular iv) of policy S10 states that:

With specific reference to Norton Local Centre –

- 1) There is no detrimental impact upon the residential amenity of the Centre in accordance with Policy S11;
- 2) There is no loss of, or detrimental alteration to, a building or feature of historic, architectural or archaeological interest;
- 3) There is no loss of its historic character and appearance, and no detrimental impact on the visual and architectural character of Norton Conservation Area

22. The siting of a fitness studio/personal training studio of this scale, in an upper floor premises within the defined local centre is considered to be in accordance with the policies of the local plan, subject to the proposal meeting other general requirements such as amenity and highway implications. Additionally the applicant states that the overall development has created the equivalent of 9 full time jobs and the proposal is considered to be in accordance with the economic growth considerations of the NPPF.

23. It is therefore considered that the use of the upper floor of the premises as a fitness studio is in broad accordance with national and local plan policies subject to all other material planning considerations discussed in further detail below:

Amenity/impact on neighbouring residents

24. Paragraph 124 of the NPPF states planning policies and 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'. Norton High Street is a mixed use Local centre, with a public car park nearby accessed via Mill Street and Summerhouse Square located to the rear of the library and Café Lilli. Additionally the premise sits on the corner of Mill Street opposite the George Public House. This is a historic pub with an outdoor seating area on to Mill Street.
25. Within close proximity of the application site are public houses with late licences and therefore there is an existing level of night time noise generated from the operation of these businesses to the nearby residents along with the movement of the public from other late night establishments in the area and the public car park. In addition, permission exists for the upper floor area to be used as a training and office facility, which would in itself generate a degree of comings and goings associated with such a use.
26. The first floor fitness studio as created is a relatively small space, used primarily for one to one personal training and small group fitness classes. Limited gym equipment is in place and this consists of a weight bench, single exercise bike, mats and free weights. No large motorised gym equipment is in place and restricted space makes this unlikely to be introduced in future. Access to the upper floor is obtained from the ground floor café. As a consequence of the size of the premises, the number of patrons using the facility at any one time is limited and accessing the premises is not materially different than the use approved through the 2015 permission.
27. The applicant has requested opening hours which are considered reasonable for a local centre location with nearby residential properties. The previous consent had a condition restricting opening hours of the unit to between 07.00 and 20.00hrs with the premise being vacated by 10pm to safeguard the amenities of residential properties in the vicinity
28. This previous condition was based on the 2015 applicants intended opening hours. The fitness studio proposes hours of use of 6am to 9pm Monday to Sunday. With the Health Deli 7am to 9pm Monday to Saturday and 10am-6pm Sunday and bank holidays.
29. Environmental Health raise no objection to the hours of opening proposed and a condition limiting the operating hours has been recommended to ensure the amenity of the adjacent residential properties is safeguarded. Additionally a condition requiring that access for customers to the premises by via the main front High Street only, will ensure that the rear access/fire escape cannot be used by customers at unsociable hours. It is therefore considered that the fitness studio use raises no additional adverse issues of amenity or nuisance to neighbours than the previously approved extant use.

*Noise transmission through structure*

30. The property is a new building, built as an individually contained structure. Therefore, any opportunities for noise transmission as a result of fitness classes and equipment use are limited. Any issues of noise arising from the use of the premises can be considered by Environmental Health and appropriate action taken if required.
31. Whilst Environmental Health have recommended a condition that the windows of the building be kept closed when music is being played. It is considered that this would be an unreasonable and unenforceable condition. There is no such condition on the previous approved application and it is not considered that the change of use would be materially different from the previous

approved used to warrant such a condition. This condition would not meet the planning tests of being necessary, reasonable and enforceable. Consequently the condition is not considered to be justified.

*Outdoor seating area;*

32. An outdoor seating element is proposed in the rear yard area. The submitted plans show tables and chairs proposed at first floor level on the flat roof area. This element of the proposal is considered unacceptable due to potential for overlooking and resulting privacy impacts on neighbouring properties. The applicant has therefore advised that this element is to be omitted from the proposal and a controlling condition can be applied to prevent this area being used for seating purposes.
33. Through the 2015 application a planning condition restricted the outside area for use by customers apart from use as a smoking shelter. The applicant intends to use this area for outside customer seating. As the premise is a health deli, the site is a non-smoking site and no designated smoking area is proposed. Previously this yard area was part of the commercial unit of the former Booze Busters off licence therefore prior to the new build, the yard had an existing commercial use. Although this yard area is in close proximity to residential properties at Dragon Court and Summerhouse Square. There are no windows on the gable elevation of 1 Dragon Court which is the property located closest to the boundary with the rear yard. The neighbouring property also sits at an elevation position and is separated from the yard by its driveway. Additionally, the garden area of number 101 High Street adjoins the yard on the southern boundary.
34. The Environmental Health department raise no objection to the use of the yard for outdoor seating purposes and request a condition limiting the use of the yard from 11am to 8pm, with no music played in the outdoor area or any lighting likely to cause a nuisance to adjacent premises.
35. Whilst it is recognised that there are a number of residential properties located in close proximity to the yard. It is considered that the use of the courtyard by customers at the time proposed would be no different to comparable situations in Norton High Street, such as the pavement café at Café Maison which is located in close proximity to residential properties. That any noise or disturbance issues associated with customers talking in the yard area would be limited and only during day time hours and that this would be no worse to the general comings and goings associated by staff of the unit using the yard for commercial purposes such as movement of waste, deliveries etc.
36. The unit does not have an alcohol licence and the applicant states that due to the health focus of the deli there will be no intention to apply for an alcohol licence to protect the health of their customers and to avoid unnecessary disturbance to neighbours. Should this situation change in future the premises would be subject to licensing control. It is not considered that the use of the yard during the times recommended by Environmental Health would lead to an undue adverse impact in regards to noise and nuisance above the existing situation to these properties that would warrant refusal of this element of the proposal.
37. Overall, the Environmental Health team raise no issues in regards to noise or nuisance associated with the fitness studio use. Therefore, it is not considered that the fitness studio use raises any additional issues of amenity or noise issues to neighbouring properties than the previous planning approval subject to appropriate controlling conditions.

Impact on the character of the conservation area

38. Saved policy EN24 states that 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

39. The impact of the physical works and the resulting impact on the character and significance of the conservation area are discussed further below:

*Installation of external flue*

40. An external galvanised flue has been constructed on the rear of the building. This is visible from wider views on Mill Street and whilst there is a visual impact from the structure, previously on this site was a commercial premises that was in a dilapidated condition for a number of years with a mix of rear extensions and an unkempt yard area. The new building and business use has had a marked visual improvement on the character of the immediate area and Norton Conservation Area. There are other examples of flues on discreet locations in the Norton Conservation Area such as at the neighbouring Café Lilli, which can be seen in close proximity to the premises.

41. It is not considered that the flue is visually harmful to the building itself or the wider street scene additionally it does not adversely impact on the significance of the Norton Conservation Area.

42. On balance, with the wider amenity benefits that the new building has brought to the immediate area this element of the proposal is considered to be acceptable and is necessary to ensure an appropriate means of fume extraction from the kitchen area to prevent odour nuisance to surrounding properties.

*Relocation of the external fire escape/railings.*

43. A rear external fire escape was approved under application 15/1376/FUL. The location of this has altered due to internal changes at first floor and to meet building regulation requirements. Previously this ran over the flat roof element and discharged into the yard area, flat against the building. This now runs near to the boundary with 101 High Street and discharges into the rear yard area.

44. Although this has resulted in a visual change when viewed in the wider aspect from Mill Street. It is not considered that this alteration has an adverse impact on the appearance of the building.

45. Although the fire escape now runs in closer proximity to No 101 High Street this is a fire escape route and will only be used in occasional circumstances in a transitory nature associated with escape from the gym. Whilst the applicant states that all access by customers to the fitness studio will be via the ground floor café, use of the fire escape as a means of access to the fitness studio has been considered. Due to the early opening hours proposed at the fitness studio it is not considered that this would be an appropriate access to use at unsociable hours. A condition will therefore be recommended that all customer access should be via the front main High Street entrance except in an emergency situation. It is therefore considered that the relocated fire escape does not raise any additional adverse impact in terms of amenity to neighbouring residential properties.

46. The railings proposed around the flat roof area are for fire safety reasons. Railings by way of a gangway or surrounding the roof structure are a requirement of the fire escape route to meet building regulations.

47. The height, style and design of the railings proposed are considered to be acceptable and will not result in an adverse visual impact on the building, street scene or wider amenities of the

conservation area. Nor are they considered to raise any issues of amenity with neighbouring properties.

#### Highway and car parking considerations.

48. The application site is considered to be in a sustainable location within the Norton local centre on main bus routes and in walking distance of a number of services and facilities. The Highways Transport and Environment Manager has provided comments on the application. Noting that the 2013 planning permission 13/0090/COU showed ancillary offices and staff rooms on the first floor, and the 2015 application 15/1376/FUL proposed to hold cookery classes on the first floor.
49. The proposed D2 fitness studio use is considered to be comparable in terms of trip generation to the previously approved cookery classes; therefore no highway objections are raised.
50. Whilst the concerns of residents in regards to car parking issues are noted. There is on street public car parking available within the vicinity of the premises and the fitness studio use is considered to create no additional car parking issues above and beyond the existing approved use.
51. In light of the comments provided by the Highways, Transport and Environment Manager it is considered that the current proposals are acceptable in highway terms and will not exacerbate any existing car parking issues.

#### Residual matters

52. Environmental Health have requested a condition requiring appropriate waste storage to be provided. A waste storage area has been constructed in accordance with the 2015 permission and it is not considered that a condition is therefore required.

#### **CONCLUSION**

53. The application has been considered in accordance with national and local planning policies and is considered to be acceptable in that it will not result in a conflict with planning policy; an undue adverse impact on the amenity of the building or neighbouring properties; is acceptable in regards to the impacts on the Norton Conservation area and is acceptable in highway safety terms. It is recommended that the application be approved with conditions for the reasons specified above.

#### **Director of Economic Growth and Development**

**Contact Officer Mrs Fiona Bage**

**Telephone No 01642 526271**

#### **WARD AND WARD COUNCILLORS**

**Ward**

**Norton North**

**Ward Councillor(s) Councillor Steve Nelson**

**Ward Councillor(s) Councillor Kathryn Nelson**

#### **IMPLICATIONS**

##### **Financial Implications:**

As report

##### **Environmental Implications:**

As report

##### **Human Rights Implications:**

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



**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

Core Strategy – 2010

Supplementary Planning Documents

SPD3 – Parking Provision for Developments

SPD4 – Conservation and Historic Environment Folder