

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**24 November 2021**

**REPORT OF DIRECTOR OF FINANCE,  
DEVELOPMENT AND BUSINESS SERVICES**

**21/1381/RET**

**Fourteen Drops , 77A High Street, Yarm**

**Retrospective application for change of use of land to provide outside seating area in association with 77A High Street.**

**Expiry Date**

**SUMMARY**

The application seeks permission for the change of use of the existing rear yard to an outside seating area in association with 77A High Street, Yarm. The associated building is Grade Two Listed and is within the Yarm Conservation Area. No physical development is proposed as a result of the proposed change of use.

A total of 9 letters of objection have been received and 14 letters of support. The Parish Council and Environmental Health Unit are unable to support the development, over concerns of impact on adjacent occupiers' amenity.

The main planning considerations of this application are the compliance of the proposal with national and local planning policy, the impacts upon the character and appearance of the area, impacts on existing and future occupiers, highway safety, flood risk and impact on the heritage asset. The above impacts have been considered and are set out in full within the report below. However, the main considerations relate to the impacts on the amenity of existing and future occupiers of the surrounding premises.

In this instance there is a close relationship between the site and neighbouring residential properties. The introduction of a commercial activity within such close proximity of residential dwellings, when such a relationship does not currently exist, does raise concerns over the potential impacts on the amenity of the neighbouring occupiers. Given the nature of the proposed use and proposed hours of use, it is considered that the proposals would give rise to a level of noise and disturbance which would result in an unacceptable relationship to the detriment of the occupiers of the adjacent dwellings.

Whilst the reduced hours of use of the yard may be acceptable during 'daytime' hours maybe acceptable, this would not be in keeping with their aspirations/ business model as it principally operates as a wine bar.

It is therefore considered that the proposed development would give rise to a level of activity which by its nature would result in a level of noise, nuisance, general disturbance and loss of privacy, contrary to paragraph 130 and 180 of the NPPF and local planning policies SD8 and EG2 and consequently the recommendation is one of refusal.

## **RECOMMENDATION**

That planning application 21/1381/RET be refused for the following reason;

### Residential Amenity

1. In the opinion of the Local Planning authority the use of the outside yard area for seating purposes associated with a commercial use would by virtue of noise, nuisance, general disturbance and loss of privacy, be detrimental to the amenities of the occupiers of the neighbouring properties, contrary to paragraph 130 and 180 of the NPPF which seek to secure a good standard of amenity for all existing and future occupants of land and buildings, as well as Local Plan Policies SD8 and EG2.

## **BACKGROUND**

1. 17/1913/COU Change of use from A1 (with ancillary A3) to a hybrid shop, tapas cafe and wine bar (A1, A3 and A4) Approved 13th September 2017, the application did not include the service yard within the red line plan. Notwithstanding this following concerns raised from the Councils Environmental Health Unit the following condition was imposed;

### External Yard Area

*The external yard area shall not be used by customers or for the consumption of food or drink unless otherwise agreed in writing by the local planning authority.*

*Reason: For the avoidance of doubt and in the interests of the amenity of the residential premises.*

2. A further application was made in 2018 (18/1439/VARY) to vary condition no3 (Hours of Operation) this was approved 15th August 2018 and permitted opening of the premise to 09:00 to 00:00 Monday to Friday, 09:00 to 00:00 Saturday and 10:00 to 22:00 Sunday and Bank holidays.
3. Following Lockdown the site was granted a series of Temporary Events Notices (TENs) to use the rear yard as an outdoor seating area. TENs are often used to allow small ad-hoc or seasonal events to occur, which include licensable activities. For the avoidance of any doubt, a TENs relates purely to the event and does not given permission for the use of the land.

## **SITE AND SURROUNDINGS**

4. The application site is a three storey property located at 77a High Street in Yarm a ground floor premises. The first floor is occupied by Diane Kaye with the second floor being a residential flat.
5. The northern boundary is shared with 77 High Street with the southern boundary being shared with 75 High Street. To the rear of the premises is a yard area belonging to the premise and beyond the rear yard is the garden of 79 High Street. The building is Grade II listed and located within Yarm Conservation Area.
6. The site is within flood zone 3.

## **PROPOSAL**

7. The application seeks planning permission for change of use of the rear outside area of the premises to an outside seating area in association with the existing commercial use of 77A High Street.

8. The proposed hours of use are Monday to Sunday 10am-10pm, as submitted on the application form. The applicant has however proposed a revised time of 9pm.

### **CONSULTATIONS**

9. The following Consultations were notified and any comments received are set out below (in summary):-
10. Parish Council – object to the proposal based upon complaints received from residential property owners on the basis of loss of privacy; noise pollution and loss of enjoyment of property.
11. Highways Transport & Design Manager – The Highways, Transport and Design Manager has no objection to this application.
12. Environmental Health Unit – I would have significant concern regarding this application which lead to grounds for objection from an Environmental Health perspective.

This premises started to use its outside space following the Covid19 restrictions and in support of this business testing the use, Temporary Events Notices (TENS) were accepted by Stockton Borough Council under the controls of the Licensing Act 2003. The TENS authorised the premises to use this outdoor space until 22.00Hours with no lighting, heating or music to be permitted. The TENS were then monitored by staff from both Environmental Health and Licensing and were found to be well managed.

However, the amount of noise complaints received from residents within the vicinity were significant and the type of noise from clients being in this location was uncontrollable by the applicant. It is for that reason that Environmental Health are of the opinion that no controls can be put in place to adequately mitigate this noise source or the effect it is having on the neighbouring residents.

### **PUBLICITY**

13. Publicity has been given to the planning application through advertisements in the press, site notice and neighbour notification letters.
14. A total of 9 number of objections have been received. All those comments received are identified below and a list of those who have contributed are listed below (in summary).

1. Mrs Jackie Earl 2 Manor House Mews Yarm,
2. Mrs Jackie Earl 3 High Church Wynd Yarm,
3. Mrs Jackie Earl 79a High Street,
4. Andrew Moffat Flat 1 77 High Street
5. Ms Lesley Nicolson 1 Holmdene Yarm,
6. Mr Ben Garfitt 3 Manor House Mews Yarm,
7. Mrs Karen Rhodes 12 High Church Wynd Yarm,
8. Miss Margaret Priestley 4 Lord Nelsons Yard Yarm
9. Mr Peter Monck 44 West Street Yarm

#### **Objections:**

- The noise caused disturbance throughout the day and during their TENS.
- Not suitable for the densely populated residential area
- Impact on privacy
- Applicant does not have full use of the yard
- Noise disturbance

- Light pollution
- Visual impact
- Close proximity
- Right of light
- Odour – smoking
- Devalue of properties
- Concerned over increased levels of anti-social behaviour in the high street and the increasing number of bars will increase this.
- The human rights act of 2010 states that the council is supposed to protect the wellbeing of its residents.
- Set precedent
- Possibility of a similar establishment opening and continuing the misuse of a residential area.
- General disturbance created by persons using the premises
- Contrary to policy
- Previous permission prevented use of the yard by customers
- The business was established and run without the benefit of the yard and judgement was made on the viability of the business when it was set up
- Previous application for The House was dismissed at appeal REF 06/1958/COU
- After Lockdown rules relaxed there were 2 further incidents with 14 drops contravening planning permission once again
- The towns and communities are totally disintegrating and dispersing leaving desolation, in wonderful Historic Market Towns, ripping the heart out of communities
- Residents are paying excessive council tax for the upkeep for the revellers ambience when in fact there should be a reduction.
- The Temporary Event Notices showed the shortcomings to this proposal, with the near residential properties impacted by noise and intrusion into the evening lives.
- Yarm High Street is primarily Georgian, with properties tightly built together.
- These high street properties do not lend themselves to this type of development, without having serious impacts of the nearby residents.
- If this is allowed to go ahead, it will set a precedent for other rear courtyards to be used in a similar way.
- Installation of parasols affected light
- Whilst Fourteen Drops is an upmarket establishment which may generally have well behaved clientele, however if this is application is approved there is little to stop another business taking over the lease and running another drinking establishment in the premises.
- The access passage gate to High Street and Yard belongs to the flat and Diana Kaye Florists it is a Fire Emergency Exit for all 3 properties .
- The glare of the garden night lights which glared into bedrooms.

15. A total of 14 letters of support have been received. All those comments received are identified below (in summary) and a list of those who have contributed are listed below (in summary).

1. Mrs Susan Dixon 2 Sideling Tails Yarm,
2. Mrs Sue Maguire Lavender House 9 The Crescent
3. Mr Harry Miall 3 Chapel Yard Yarm,
4. Dr Jean MacLeod 26 Atlas Wynd Yarm,
5. Mrs Michelle Usai 6 Foston Way Stockton-on-Tees
6. Mrs Lucy Wray 6 Yew Close Yarm,
7. Ms Kathryn Armstrong 5 Highfield Drive Eaglescliffe
8. Mr Colin Goldie 9 Green Leas Carlton,
9. Mrs Carolyn Casey 9 Kingsdale Close Yarm
10. Mrs Arvin Nairn 42 Mallard Drive Yarm,

11. Mr Nigel Fishburn 24 The Granary Wynyard,
12. Miss Emma Francis 7 Swinburn's Yard Yarm
13. Tracy Davison 2 West Street Yarm
14. Mrs Pamela Smailes 69 Beckwith Road Yarm

- Supporting businesses in getting back on their feet again is vital.
- Asset to Yarm
- The Government has made it absolutely clear that it considers it essential to support pubs, bars, restaurants and cafes to increase their outdoor capacity quickly and at a low cost.
- Effective use of the existing yard
- Residents who live in Yarm should expect noise and disturbance
- Clientele of Fourteen Drops are predominantly pretty sophisticated
- Need to support small independent businesses in our lovely town
- Not of a scale to encourage large crowds
- Used by community groups
- If an organisation such as the Cross Keys Public house can have the public out in their garden till late, and they can be heard on the high street, then for equality, the Fourteen drops should be allowed the same and fair right to use the yard with only a minor number of customers, only till 9pm

### **PLANNING POLICY**

16. 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 Stockton on Tees Borough Council Local Plan 2019.
17. Section 143 of the Localism Act came into force on the 15 January 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 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**

18. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
19. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
  - approving development proposals that accord with an up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - ii. 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.

Para 130. Planning policies and decisions should ensure that developments:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users 46 ; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

Para 133 ‘.the desirability of new development making a positive contribution to local character and distinctiveness.’

Para 170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution

Para 180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life
- (c) limit the impact of light pollution from artificial light on local amenity

### **Local Planning Policy**

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

#### Strategic Development Strategy Policy 1 (SD1) - Presumption in favour of Sustainable Development

1. In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

#### Economic Growth Policy 1 (EG1) - General Development Sites

3. In order to maintain an adequate supply of land and premises for economic growth, all allocated sites, and all existing land and buildings last used for employment purposes, will be protected from alternative uses, unless it can be demonstrated through the submission of proportionate evidence that:

- a. The development does not lead to the loss of a key strategic site that would undermine economic growth across the Borough and/or the wider Tees Valley; and,
- b. The site or premises is no longer required for employment purposes, as demonstrated by an appropriate period of marketing extending to at least 12 months; and,
- c. The loss of the site, or part of the site, does not result in a negative impact on existing businesses prejudicing further commercial expansion in the area, when considered against policies SD8 and ENV7; and,
- d. Where appropriate, it has been demonstrated that redevelopment or refurbishment of the site is not viable for continued employment uses, or continued employment use would result in unacceptable traffic or environmental problems which would be significantly alleviated by the proposed use.

### Economic Growth Policy 2 (EG2) - Managing Centres

#### Maintaining Vitality & Viability

1. The Council will seek to maintain and enhance the vitality and viability of all centres in the Town Centre Hierarchy, as defined in Policy SD4 and represented on the Policies Map. Proposals for the change of use, or redevelopment of premises, away from retail (Use Class A1) will only be supported where it can be demonstrated that:

- a. The proposal will contribute to the centre's vitality and viability and does not detrimentally impact on the retail function of the centre; and
- b. The proposal does not result in the unjustified 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; and
- c. The proposal does not result in an over-concentration of non-retail or evening economy uses to the detriment of the vitality and viability of the centre; and
- d. Proportionate evidence has been provided to demonstrate that the premises are no longer required for retail purposes.

2. In addition to the above, within town, district and local centres the Council will support proposals for food and drink (Use Classes A3, A4 and A5) and other evening economy uses providing the activities in the area do not result in a harmful over-concentration of that use, either as a proportion of the centre overall or as a cluster within the centre.

5. Proposals to reconfigure and modernise commercial units throughout the town centre, whilst protecting and enhancing the historic character of the area, will be encouraged.

#### District Centres

6. The Council will, where appropriate, work with the owners of Billingham and Thornaby District Centres and local communities to develop schemes to maintain and enhance the vitality and viability of these modern district centres, particularly where the proposal will generate significant regeneration benefits for the wider centre.

7. The Council will monitor the level of evening economy uses (A3, A4 and A5 Use Class) in Norton and Yarm District Centres. New proposals will only be permitted where they demonstrate that they are in accordance with EG2.2 and that they would not have a detrimental impact on the amenity of local residents.

9. To support Yarm and Norton Centre's historic character and mix of uses, residential properties within and adjacent to the centres, as defined on the Policies Map, will be protected in that use.

### Strategic Development Strategy Policy 5 (SD5) - Natural, Built and Historic Environment

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

1. Conserve and enhance the natural, built and historic environment through a variety of methods including:
  - a) Ensuring that development proposals adhere to the sustainable design principles identified within Policy SD8.
2. Meet the challenge of climate change, flooding and coastal change through a variety of methods including:
  - a. Directing development in accordance with Policies SD3 and SD4.
  - b. Delivering an effective and efficient sustainable transport network to deliver genuine alternatives to the private car.
  - c. Supporting sustainable water management within development proposals.
  - d. Directing new development towards areas of low flood risk (Flood Zone 1), ensuring flood risk is not increased elsewhere, and working with developers and partners to reduce flood risk.
3. Conserve and enhance the historic environment through a variety of methods including:
  - a. Celebrating, promoting and enabling access, where appropriate, to the historic environment.
  - d. Supporting proposals which positively respond to and enhance heritage assets.

### Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:
  - a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
  - b. Landscape character of the area, including the contribution made by existing trees and landscaping;
  - c. Need to protect and enhance ecological and green infrastructure networks and assets;
  - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
  - e. Privacy and amenity of all existing and future occupants of land and buildings; for all modes of transport;
  - g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
  - h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.
2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.
4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.



Historic Environment Policy 2 (HE2) - Conserving and Enhancing Stockton's Heritage Assets

1. In order to promote and enhance local distinctiveness, the Council will support proposals which positively respond to and enhance heritage assets.

6. The following are designated heritage assets:

; Eaglescliffe with Preston; Egglecliffe, Hartburn; Norton; Stockton Town Centre; Thornaby Green; Wolviston and Yarm

d. Listed Buildings

**MATERIAL PLANNING CONSIDERATIONS**

21. The main planning considerations of this application are the impacts on the amenity of the surrounding occupiers, the character of the surrounding area, highway safety and flood risk.

Procedure: Scheme of Delegation

22. The application is being reported to Members under the Councils Scheme of Delegation as the application has received 14 letters of support contrary to officer's recommendation.

Principle of the Development

23. The application site lies within the limits to development in the district town centre of Yarm. The application property was granted planning permission for change of use from the former retail use to a hybrid shop, tapas cafe and wine bar (A1, A3 and A4) September 2017, ref 17/1913/COU.

24. Policy EG2 states that within town, district and local centres the Council will support proposals for food and drink (Use Classes A3, A4 and A5) and other evening economy uses providing the activities in the area do not result in a harmful over-concentration of that use, either as a proportion of the centre overall or as a cluster within the centre. New proposals will only be permitted where they demonstrate that they are in accordance with EG2.2 and that they would not have a detrimental impact on the amenity of local residents.

25. Consideration is given to the economic growth aims of the NPPF and the requirements to support town centres by allowing businesses a degree of flexibility and adaptability. The intention of the proposal to have an outside seating area associated with the extant café bar use is considered to be acceptable in principle to allow a degree of business flexibility and would be in line with a number of other café/ bar facilities operating in the town centre that have such facilities. Due to the nature and scale of the proposal, linked to the existing commercial use it is considered to be in broad accordance with the aims of EG2 and due to neighbouring uses would not lead to an unacceptable level or cluster of such uses in the immediate area.

26. The application form also suggests that the proposal would result in an uplift of staff from 1 full time and 4 part time staff to 2 full time and 6 part time staff members. Whilst this is an economic and social benefit which weighs in favour of the proposals, it needs to be balanced against other material planning considerations as detailed below.

Impacts on the amenities of neighbouring properties

27. The property is situated on Yarm High Street where there are a mix of commercial properties adjoining at ground floor level. There is a residential flat at first floor level above the existing commercial unit and residential dwellings form the north, west and eastern site boundaries.

28. Consideration is given to the changes to government legislation that no longer requires planning permission for the use of highways areas to be used as pavement cafes and the ability for businesses and associated land to change use with greater flexibility through recent revisions to the E class grouping within the GDPO. These changes align with the governments

ambitions to allow greater flexibility for businesses in town centres. There are also a number of existing pavement cafes and outdoor seating areas within Yarm. Whilst that is acknowledged, it remains necessary to strike an appropriate balance between supporting the economic aims of the NPPF and businesses as well as ensuring the amenity and privacy of those adjoining properties is appropriately safeguarded through the planning process.

29. This close-knit relationship of domestic properties and the commercial use is not uncommon in the conservation area and it is a clear characteristic of Yarm town centre, which has a tight knit grain of development. A number of residential properties lie in close proximity to the rear yard area. There are also a number of existing commercial cafes and restaurants within the centre of Yarm with outside seating areas of varying siting and scale, some of which are long established with no planning control and others with controls in respect of numbers of patrons and hours of use.
30. Whilst similar situation can already be found at Café Nero and other locations within the Yarm conservation area (where there are terraces of residential cottages with limited amenity space in close proximity to commercial uses). Each site has to be considered on its own merits. Other than for the purpose of bin storage it does not appear that the application site has operated as part of a commercial relationship with any of the respective units to such a degree that there is already a relationship between its use and those immediately adjacent residential properties.
31. The application does not specify the number of patrons that would be restricted to use the outdoor space, but it is noted that the site area extends to approximately 107sqm and it is was initially proposed that the space be used between 10am – 10pm, Monday to Sunday. However, following discussions the applicant has proposed to limit this to 10 am – 9pm Monday to Sunday.
32. The Environmental Health team have commented and objected to the proposals and it is noted that their comments have been largely formed by the complaints received from residents during the period the site as operational as an outdoor seating when it was granted a series of TENs.
33. In view of these factors and the close relationship between the site and neighbouring residential properties, it is considered that the introduction of a commercial activity within such close proximity of residential dwellings, when such a relationship does not currently exist, does raise concerns over the potential impacts on the amenity of the neighbouring occupiers. Given the nature of the proposed use and proposed hours of use, it is considered that the proposals would give rise to a level of noise and disturbance which would result in an unacceptable relationship to the detriment of the occupiers of the adjacent dwellings.
34. The letters of support are noted in terms of the clientele of fourteen drops. However, the proposed use goes with the land and not the operator.
35. Notwithstanding the objection from the Environmental Health team, it is considered that a daytime use of the site could be accommodated within the site boundary and a time of 3pm was initially put to the applicant to consider. However, it was not considered that this would be in keeping with their aspirations/ business model as it principally operates as a wine bar. Whilst recent decisions have been granted for outdoor time seating areas up to 5pm where a similar physical relationship with neighbours exists. In the case of this application, given principally the relationship the site has with 79a High Street, it is not considered that the use of the yard during the evening would provide the occupiers of this residential property (79a High Street) with an acceptable level of amenity as a result of the general associated activities.
36. With respect of privacy, No 79a has a large floor to ceiling glazed gable which fronts the northern boundary of the site. Whilst the site boundary is formed by an approximate 2m high boundary wall. It was observed by officers during an inspection of the TENs that when dark the

patrons of the application site can clearly make out shapes and activities of the rooms served by the glazed gable despite it being obscurely glazed. It is considered that such a relationship would result in a fundamental breach of the occupiers of this dwellings privacy.

37. The incorporation of the glazed gable to no79a was approved under application ref 09/0388/REV and was as a result of a previous withdrawal over design concerns. The glazed gable was considered to enable the legibility between old and new. It is noted from the 2009 officers report that the extent of glazing was considered acceptable in terms of amenity as 'the main windows of the extension will look in the garden courtyard area and there are no properties directly overlooked and significant distances between the adjacent properties to ensure no overlooking'.
38. Whilst on balance it is considered that the outside area could be used during the day with strict controlling conditions to ensure the amenity of the occupiers of the adjacent residential properties is safeguarded. The level of use proposed to the applicant was not considered to be acceptable. As a result, the level of use proposed would, notwithstanding the reduction from 10pm to 9pm, result in a significant adverse impact on the occupiers of the surrounding residential dwellings through the level of activity proposed in relation to noise, disturbance and privacy that it would be contrary to the aims of local plan policies SD8 and EG2 of the Local Plan and paragraphs 130 and 180 of the NPPF and cannot therefore be given officer support.

#### Character and Appearance of the Area

39. The NPPF and the adopted Local Plan encourage high standards of design with Local Plan Policy SD8 setting out that new developments should be appropriate to the context of the surrounding area and be of an appropriate style, proportion and materials to the main building. Policy HE2 requires new development to positively respond to enhance heritage assets and conserve and enhance heritage assets, including their settings in a manner appropriate to their significance.
40. The premise is an existing commercial premise within Yarm centre. It is noted that at the case officers' site visit no physical works have taken place nor have any been proposed. The use of the rear yard is not considered to bring with it any adverse impacts in respect of the character and appearance of the area, the area was previously overgrown and unused in part and the works to create an active use in the area would be a positive step in management of the site and the change of use is generally considered to comply with the aims of policies SD8, SD5 and HE2 in these respects.

#### Highways

41. The Highways, Transport and Design Manager has provided comments on the application and raises no objections. The commercial premise is located in a defined district centre which is considered to be sustainably located in walking distance of residential properties and with good public transport links to Yarm. Additionally, there is public car parking available near the unit on the High Street, it is therefore not considered that the change of use will lead to any adverse highway or car parking issues.

#### Flood Risk

42. The application site is located with flood zone 3 in an area known to be at high risk of flooding. As a change of use, the application is accompanied by a site-specific flood risk assessment as required by the NPPF. It is not considered that the nature of the development would lead to any additional flood risk implications at the site and the proposed use is less vulnerable in flood risk terms given it is linked to the existing business use of the premises. It is therefore considered that the development is acceptable in these respects.

#### Residual Matters

43. Property values and impacts on property prices are not a material planning consideration and therefore cannot be considered through the current application.
44. The premises would also have to comply with all smoking legislation requirements which is not a material planning consideration.
45. Storage of commercial bins occurs to the rear of the premises in the application site, appropriate controls could be placed on this application should it be approved to agree a suitable storage location and control odour. The proposed use is not considered to give rise to any additional impacts.
46. Questions have been raised over who has access to the yard the application form stipulates that the landlord has given a full lease to the applicant for sole use of the space. No other occupiers of 77 or 77b have lease rights. Certificate B has been signed; no other evidence has been given to the contrary.

### **CONCLUSION**

47. Given the concerns over the implications for the neighbouring residents are a result in increased noise and disturbance as detailed above, it is recommended that the application be refused for the reasons specified above.

**Director of Finance, Development and Business Services**  
**Contact Officer Helen Boston Telephone No. 01642 526080**

### **WARD AND WARD COUNCILLORS**

<b>Ward</b>	<b>Yarm</b>
<b>Ward Councillor</b>	<b>Councillor Julia Whitehill</b>
<b>Ward Councillor</b>	<b>Councillor Andrew Sherris</b>
<b>Ward Councillor</b>	<b>Councillor Dan Fagan</b>

### **IMPLICATIONS**

#### **Financial Implications:**

N/A

#### **Environmental Implications:**

N/A

#### **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 2019

#### **Supplementary Planning Documents**

SPD4 – Conservation and Historic Environment Folder