

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

16 March 2022

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

21/2474/COU

117 High Street, Norton, TS20 1AA

Application for change of use of part of the rear garden area to provide outdoor seating area to include 1.8m high fence to rear in association with 117 High Street

Expiry Date: 16 February 2022

SUMMARY

As Members will recall, the application was deferred for a site visit following consideration at the February Planning Committee. The report has also been updated to reflect the change in number of covers and to also address the comments which were heard at the committee meeting. For the avoidance of doubt all that is under consideration as part of this application is the external seating area. Matters relating to the existing operations such as cooking odours, noise from within the building, litter etc... are not for consideration as part of this application.

The application seeks planning consent for the change of use of the existing rear garden area to provide an external seating area for 24 covers in association with the café/restaurant use at 117 High Street, Norton. No physical development is proposed to the property, although an approximately 1.8 metre-high close boarded fence has been erected, demarcating the rear boundary of the seating area from the remaining rear garden area and wood chippings have been laid to ground.

A total of 28 letters of objection and 13 letters of support have been received. Objection comments have also been received from the Ward Councillor and from the local Member of Parliament for Stockton North.

The planning considerations of this application are the impacts upon the character and appearance of the area including the impact on the conservation area, the impact on the amenity of existing and future occupiers and highway safety related matters. The above impacts have been considered and are set out in full within the report below.

In summary, it is noted that the proposed development is associated with the existing café/restaurant and a recommended planning condition would control operations so that they are limited to 'day-time' hours.

On balance, it is considered that the proposals would not lead to any significant levels of noise and disturbance, which would result in an unacceptable relationship for the occupiers of the surrounding neighbouring dwellings. The proposed development is therefore recommended for planning approval subject to conditions as set out below;

RECOMMENDATION

That planning application 21/2474/COU be approved subject to the following conditions and informative:

01 Approved Plans

The development hereby approved shall be in accordance with the following approved plans;

Plan Reference Number	Date Received
01	22 September 2021

Reason: To define the consent.

02 Seating for up to 24 covers

Prior to the development hereby approved being brought into use, final details of the external seating area shall be submitted and approved in writing. The seating area shall be completed in accordance with any agreed details and be retained in accordance with those details for the lifetime of the development.

At all times, the seating area shall be limited to a maximum of 24 covers.

Reason: To define consent as applied for and in the interests of the character and amenity of the surrounding Norton Conservation Area.

03 Operating Hours of External Seating Area

The external seating area hereby approved shall not be open to use by the public outside of the hours of 10:00hrs until 17:00hrs on Mondays to Sunday. No staff shall be present within the seating area outside the hours of 09.00hrs and 17.30 hrs Mondays to Sunday.

Reason: In order to safeguard the residential amenity of the surrounding neighbouring properties during sensitive early morning and evening hours when neighbouring residents can expect a reasonable level of respite.

04 No External Music

Notwithstanding the development hereby approved, no music shall be played within the external seating area/outside of the building.

Reason: In order to adequately control the impacts of the sites use on the amenity associated with the surrounding residential area.

05 Scheme for Illumination

No lighting shall be installed within the external seating area without first obtaining written approval by the Local Planning Authority. Should any lighting be sought, full details of the method of external illumination shall be submitted to and be agreed in writing by the Local Planning Authority. Such details shall include, siting of any lighting; angle of alignment; light colour; and luminance levels of all buildings facades and external areas of the site. Any lighting shall be implemented in accordance with the agreed scheme prior to the external area being brought into first use.

Reason: To enable the Local Planning Authority to control details and in the interests of the amenity of the area and protection of sensitive wildlife habitats.

06 Acoustic lobby

Notwithstanding the submitted plans, prior to first occupation and use of the external seating area, an acoustic lobby shall be installed at the rear access door of the premises to prevent noise breakout. The acoustic lobby shall be maintained and retained for the life of the proposed use of the external seating area.

Reason: To ensure a satisfactory form of development and to safeguard the amenities of adjoining residential occupiers.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority found the submitted details satisfactory subject to the imposition of appropriate planning conditions and has worked in a positive and proactive manner in dealing with the planning application.

BACKGROUND

1. In 2004 retrospective consent was given for permission for a mixed use of retail and coffee shop (ref; 04/1669/FUL), this was followed by an application in 2008 to remove the personal use restriction (ref; 08/2167/COU).
2. The land to the rear was also subject to a refusal for two semi-detached dwellinghouses including modification to existing access and formation of parking spaces (ref; 06/3660/FUL) due to the sub-standard nature of the access, implications on the alleyway, poor standard of amenity for future occupiers and a lack of a tree survey.
3. An application under section 211 to confirm that a sycamore tree did not justify a tree preservation order was given in 2011 (ref; 11/0861/SEC) and more recently in 2018 (ref; 18/0147/SEC) it was also confirmed that the removal of six trees to the rear would not require a preservation order.
4. The proposed application has been made following a Planning Enforcement investigation into allegations of unauthorised works to; outbuildings; removal of trees/shrubbery and level changes to the garden area. All of those works either had the necessary consents or did not need planning approval. However, it was explained that the two previous approvals for the coffee shop from 2004 and 2008 excluded the garden area and therefore did not benefit from the planning approvals for use as an outdoor seating area for the café.

SITE AND SURROUNDINGS

5. The application site is the ground floor commercial unit of 117 High Street in Norton. The property is flanked on either side by the residential properties of 119 High Street (north) and 115 High Street (south). The rear garden of the property backs onto the residential gardens and properties located on the Garth. The rear area is enclosed by high walls and fences and access is available via a gate onto Mill Lane (south).

PROPOSAL

6. The application seeks planning consent for the change of use of part of the rear garden area of 117 High Street Norton to provide an outdoor seating area. The applicant has revised the proposals so that they would provide for up to 24 covers and the erection of a 1.8m high close boarded fence to be located to the rear of the seating area, demarcating it from the remaining wooded garden area, bounding the residential properties located on The Garth (west).

CONSULTATIONS

7. The following Consultations were notified and any comments received are set out below (in summary):-
8. **Highways Transport & Design Manager** – No objections to the proposals as it is not anticipated that the proposals will significantly increase the demand for on street parking and any additional demand could be accommodated within the existing on street parking provision within the vicinity of the site.

There are no landscape and visual objections to the proposals.

9. **Environmental Health Unit** – have no objection in principle to the development, subject to the imposition of the following conditions:

Noise disturbance from access and egress to the premises

The opening hours should be limited to the opening hours of the premises Tuesday to Saturday 09:00 - 17:00 to ensure that adjacent premises are not adversely affected by either customers using the premises or from vehicles servicing the premises at unsocial hours.

Control of External Area

There shall be no music played in the external seating area, and no use of lighting likely to cause a nuisance to adjacent premises. Doors to the external area shall be fitted with a lobby and or self-closing devices to prevent the egress of noise.

It is my understanding that the applicant cannot structurally alter the premises to develop an acoustic lobby and has asked that an alternative solution be found. Environmental Health will accept that as the hours of operation are to be no later than 17:00Hrs and there is to be no music played externally at any time.

Doors to the external area shall therefore be fitted with a self-closing devices to prevent the ingress of smoke and egress of noise.

10. **Ward Councillor Steve Nelson** – Councillor Steve Nelson along with a Planning Officer met with residents of two properties adjacent to Café Maison and Councillor Lisa Evans would have also attended but was unavailable at the arranged time/date due to prior commitments.

The proposed location of the tables and chairs were visible from both properties. After speaking to the residents there we believe that their concerns relating to noise, loss of privacy and loss of amenity are very justified. Windows and balconies are clearly visible from the application site including children's bedrooms and family bathrooms. This impact is likely to be similar for all neighbouring properties. In our opinion any actual or proposed attempts to reduce these impacts e.g. fencing, locations of tables on the application site will not remove the likely impact on neighbouring properties. In our opinion the inevitable noise and loss of privacy will seriously impact on the quiet enjoyment of their homes and gardens which they currently enjoy. We would ask the Planning Officer to have full consideration of these concerns when making his decision.

We would also refer the Planning Officer to application 18/0182/FUL 133 High Street, Norton. This related to an application to convert a residential property to a café/retail use. 133 High Street is obviously very close to Café Maison. The application was refused in 2018 for various reasons. The two most pertinent ones are copied below:

In the opinion of the Local Planning Authority the proposed development would increase demands for on street car parking provision to the detriment of free and safe flow of traffic on the roads outside the premises which are unsuitable to safely accommodate further on street

car parking provision associated with the commercial development. Accordingly, the development is considered to be contrary to policies CS2(3) of the adopted Core Strategy Development Plan Document 2010, Saved Policy 14(i) of Local Plan Alteration No1 and Supplementary Planning Document 3 Parking Provision for Developments (October 2011).

In the opinion of the Local Planning authority the use of the outside yard area for seating purposes associated with a commercial use would be materially detrimental to the amenities of the occupiers of the neighbouring properties by reason of noise, nuisance and general disturbance, contrary to paragraph 17 of the NPPF which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings

We understand that the parking issues are no longer as straightforward as they might have been given a successful challenge to an independent Government Planning Inspector in another application involving an hospitality establishment at the southern end of the High Street. That said we would still ask the Planning Officer to have regard to the concerns re traffic and parking raised by a number of residents in their objections.

In our opinion it is the refusal on the grounds of noise, nuisance and general disturbance which are particularly apposite to the current application. They reflect and reinforce the concerns of neighbouring residents as well as the observations at the site visit. In conclusion whilst we appreciate that Café Maison is a well-run business that adds to the vibrancy of the village in respect of this particular application we think it is important we reflect the legitimate concerns of our constituents.

11. **Alexander Cunningham MP** – I would like to join local residents in Norton to express my concerns over the above proposed development. They rightly make the point that the development of the garden area - which is already underway - is right in the middle of a quiet residential area and simply a residential garden space itself. Residents have made it clear that the creation of such a large outdoor space for commercial premises will result in disturbance and increased activity - both during the week and at weekends sometimes from quite early in the morning. It is also fair to make the point that it is unclear how the business envisages future development - could it for example apply for an extended hours licence to serve alcohol with the potential for late night drinking in the proposed outdoor space? This would be totally unacceptable given the location of the garden. No-one wants to halt any small business developing but planners will also be well aware of the parking issue in Norton High Street. As a resident of Norton myself, I celebrate the opening of new restaurants and other facilities and it is clear there is enough business for both existing and new businesses to thrive. Sadly, this popular destination has brought pressure on existing parking provision, of which there is very little near the location of the applying business. The loss of parking in the former Coop site - soon I understand to be redeveloped - has also impacted throughout the area. I therefore remain concerned about increased use of residential areas for parking and the need for people who live in the village to be able to park outside their own homes. As I see it, it isn't just the potential for disturbance for local people from the use of the garden space, but also for any form of future licensing changes which would result in later hours. I know the Planning Committee will consider all these issues when determining the application.

PUBLICITY

12. Publicity has been given to the planning application through advertisements in the press, site notice and neighbour notification letters.
13. A total of 28 letters of objections have been received. A summary of the comments received are identified below along with the names and addresses of those who have contributed.

- 1 George Burns - 84 High Street, Norton
2 Frank And Rena Thomas - 115 High Street, Norton

- 3 Mr & Mrs M.G Downs - 119 High Street, Norton
- 4 Mrs Leanda French - 121 High Street, Norton
- 5 Sheila Evans - 123 High Street, Norton
- 6 Barbara Guillot - 1 The Garth, Norton
- 7 Rita Mcneill - 2B The Garth, Norton
- 8 Mrs Elaine Clements - 3 The Garth, Norton
- 9 Mr And Mrs Burns - 4 The Garth, Norton
- 10 Alan Tyerman - 5 The Garth, Norton
- 11 Jacky Stevely - 8 The Garth, Norton
- 12 Ann Carter - 5 Mill Street, Norton
- 13 Miss Rebecca Wright - 9 Mill Street, Norton
- 14 Linda Curtis - 20 Mill Street, Norton
- 15 Jill Anderson - 23 Mill Street, Norton
- 16 Mrs M Wilson - 13 The Green, Norton
- 17 Mr Brian Thomas - 40 The Green, Norton
- 18 Mr And Mrs Staples - 29 Cumberland Grove, Norton
- 19 Mr Steve Jacklin - 34 Junction Road, Norton
- 20 Mrs Rebecca Corcoran - 13 Barnett Road, Norton
- 21 Mrs Julie Toth - 12 Jameson Road, Norton
- 22 Mrs Cristina Winter - 48 Westminster Oval, Norton
- 23 Mr And Mrs Haggertone - 19 Newlands Avenue, Norton
- 24 Mr Justin Bonner - 36 Runcorn Avenue, Stockton-on-Tees
- 25 Mr David Bradbury - 46 Dunelm Road Stockton-on-Tees
- 26 Mrs Claire Docherty - 31 Redwing Lane, Norton
- 27 Mrs J Norman - 3 Alonby Court, Long Newton
- 28 Mrs Clare Hunter - 23 Linden Crescent, Yarm

Objections

- The development is not suitable for the residential area
- The development is of an inappropriate size and scale for the site.
- Noise disturbance/loss of peace and quiet.
- Impact on privacy
- Impact on children
- Worsening of existing parking related issues within the area.
- Increase in carbon emissions
- Light pollution
- Increase in litter
- Visual impact
- Odours and smells from smoking and food
- Increase in vermin
- Drainage issues and hazardous materials.
- Devalue of property values
- Concerns over increased levels of anti-social behaviour in the High Street
- Back land development
- Loss of trees and greenery.
- Impact on natural habitat for bats, birds and nesting ducks
- Impact on the historic charm of the Conservation Area and Listed Buildings
- Retrospective nature of development
- Questioning requirement for seating area at the rear given provision already exists at front and availability on upper floors.
- No considered need for further eating and drinking provision within Norton.
- Concerns over potential for alcohol licence/change of use at future date and associated impacts.

- Inadequate toilet provision to serve the development/ spread of germs

14. A total of 13 letters of support have been received. A summary of the comments received are identified below along with the names and addresses of those who have contributed.

- 1 Miss Lily Dinsdale - 282 Norton Road, Norton
- 2 Miss Emma Parker - 24 Brambling Close, Norton
- 3 Miss Audra Taylor - 5 Robertson House Claymont Court, Norton
- 4 Mrs Jo Townsend - 39 Swale Road, Norton
- 5 Mr Joe Pickett - Leven view, Yarm
- 6 Mrs Ann Pickering - 7 Regency Avenue, Normanby
- 7 Miss Claire Palin - 7 Larkhall Square, Norton
- 8 Miss Bethany Robson - 118 Braemar Road, Billingham
- 9 Mr John Ainsworth - 8 Edinburgh Avenue, Acklam, Middlesbrough
- 10 Mr Antony Mckenzie - 3 Brantingham Drive, Ingleby Barwick
- 11 Mrs Fiona Wilson - 8 Meadowbank Road, Ormesby
- 12 Robin Dinsdale – 10 Ravensworth Grove, Stockton
- 13 Mr Martin Wilson - 15 Westminster Oval, Norton

Supporting comments

- Enhance experience of establishment for local residents
- Creation of extra jobs.
- Outdoor seating benefit those with health conditions and provide a safer environment
- Limited opening hours would manage any impacts with suitable buffer remaining
- Limited external area available within Norton.
- Proposals would benefit businesses in uncertain times

PLANNING POLICY

15. 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.

16. 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

17. 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.

18. 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

19. 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

20. 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.

Principle of the Development

21. The application site lies within the limits to development in the district centre of Norton. The application property was granted planning consent for the change of use from a personal permission of A1/A3 (retail and restaurant/cafe) to a non-personal use A3 (restaurant/cafe) in October 2008 (08/2167/COU).

22. The proposed development seeks to utilise the existing garden at the rear of the unit to provide an external seating area associated with the extant café/restaurant use. The NPPF aims to encourage economic growth and to support the prosperity of town centres by allowing businesses a degree of flexibility and adaptability.

23. Local Planning 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) 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.

24. Due to the nature 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. Subject to the considerations in respect to the impact on the character and amenity as set out below, the principle of development is considered acceptable.

Impact on the Character of the area and conservation area

25. 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.
26. The application site is an existing commercial premise located within Norton District centre. The proposal would see a former garden area being changed into an outside seating area. Some of the proposed levelling and re-grading works had been carried out as the applicant was of the opinion planning permission was not required for the seating area. At the time of the officers site visit a 1.8-metre-high close boarded fence defining the extent of the external seating area from the remaining rear garden had been carried out. Bark chippings had also been laid to ground within the location of the proposed external seating area.
27. The proposed works and change of use would occur to the rear of the premise and be largely hidden from the main thoroughfare of Norton high street. Nevertheless, views of the area are available from the rear and upper floors of neighbouring properties. Whilst part of the area would become a seating area, it is also noted that a wooded area of the garden would be retained and keeping a element of the a verdant aspect of Norton Conservation Area.
28. The proposed physical changes to the garden area are limited and would not result in any harmful impacts to the character and appearance of the area nor that of the Norton Conservation Area.

Impacts on the amenities of Surrounding Neighbouring properties

29. Planning Policies SD8 and EG2 seek to provide sufficient levels of privacy and amenity for all existing and future occupants of land and buildings.
30. Within Norton High Street, where there are a mix of commercial and residential properties. The application site itself is flanked on either side by the residential properties of 119 High Street (north) and 115 High Street (south). The rear garden of the property backs onto the residential gardens and properties located on The Garth. This close-knit relationship of domestic properties and the commercial uses are not uncommon within the Norton Conservation Area and as with Yarm, it contributes to its distinctive characteristics.
31. Comments were made at the previous committee meeting regarding the impact of the existing café on surrounding residents because of matters such as cooking odour, views of the kitchen current opening hours and noise from the kitchen. Whilst noted, all these matters relate to the existing operations of the café and not the proposal for the seating area and as such they cannot be considered as part of this proposal.
32. With respect to the commercial use of external areas, it is acknowledged that recent changes to government legislation no longer requires planning permission for the use of highway areas to be used as pavement cafes. Furthermore, government changes also allow greater flexibility with the ability for businesses and associated land to change use through recent revisions to the E class grouping within the GDPO. Such changes align with the governments ambitions to

allow greater flexibility for businesses within designated centre locations. There are also a number of existing pavement cafes and outdoor seating areas within Norton.

33. The applicant has revised the proposals down to a maximum of 24 patrons at any one time and the application form requests operating times from between 09:00 – 17:00 Monday to Sunday. At the time of the case officer's site visit, both the application site and a number of surrounding nearby neighbouring properties were visited to assess the neighbouring relationship. The application site is enclosed by a high walled area either side of the property, running the length of the shared side boundaries. At the rear, the extent of the external seating area is contained by an approximately 1.8-metre-high close boarded fence, with a remaining wooded garden area, providing a buffer extending between approximately 11 – 15 metres to the residential garden areas located at The Garth to the rear.
34. Whilst it is acknowledged that the proposed development would represent a change for the surrounding neighbouring residents, with the presence of patrons within an external area. It is acknowledged that a degree of noise could occur and where views to and from the site could be achieved, particularly from first floor windows and balcony areas of the surrounding neighbouring properties. The Council's Environmental Health Unit have considered the relationship between the commercial unit and the nearby residential uses, taking account of such issues as noise and disturbance, smells and odours/smoke, and raise no objections.
35. Comments made in relation to being able to see the rear seating area from neighbouring properties are noted (as above), however, this in itself does not indicate an unacceptable impact in planning terms. Consideration must instead be given to what can be seen/witnessed from within the actual seating area itself. The change in levels and presence of high boundary walls/fence, does limit the potential for overlooking into the neighbouring premises from the seating area. It is therefore considered that there would not be a significant loss of privacy as a result of the proposals.
36. In addition, controls are recommended to limit the impact of the proposed development by limiting the number of 'covers' (up to 24) and hours of use of the seating area (to 10am to 5pm) which are considered to be less sensitive parts of the day, to strike an appropriate balance between the commercial and residential nature of the surrounding area. Accordingly, it is considered that the residential amenity of the surroundings can be appropriately safeguarded with such controls.
37. Subject to the recommended controlling conditions, it is considered that the proposed development would not result in any significant loss of privacy or amenity for the occupiers of the surrounding residential properties to warrant the refusal of the planning application and the proposals are in accordance with local plan policies SD8 and EG2 of the Local Plan and paragraphs 130 and 180 of the NPPF.

Highway Safety Related Matters

38. Objection comments have been received from surrounding neighbouring residents in relation to the lack of available parking to support the proposed external seating area. The Highways, Transport and Design Manager has commented that it is not anticipated that the proposals will significantly increase the demand for on street parking and raises no objections to the application. It is also noted that Norton High Street is accessible by foot or cycle and has good public transport facilities, it is therefore deemed to be a sustainable location.

Impact on habitat

39. Neighbouring residents have raised concerns that the loss of greenery that has taken place has impacted upon on wildlife habitat within the area, which includes protected bats. The trees in question were not the subject of any Tree Preservation Orders (TPO) but instead were given some protection as they were within the Norton Conservation Area.

40. The appropriate mechanism for carrying out work to trees within conservation areas is to apply for those works under a section 211 notice. In this instance and as detailed above the removal of six trees and shrubbery was considered under the Section 211 process which resolved a tree preservation order was not necessary and the trees were legitimately able to be removed. There was therefore no breach of any planning control on this matter.
41. It is noted that a small wooded area exists at the rear of the erected close boarded fencing retaining an element of 'habitat'.
42. Concerns have also been raised that the noise and disturbance from the proposed use would impact on ducks who are known to nest in proximity to the application site. However, the application site does not form any specialist designation that would prevent planning consent being granted and there is no evidence that the proposed development would result in any significant impacts on any wildlife habitat, especially those protected by law.

Residual Matters

133 High Street Norton

43. It is noted that within the Ward Councillor's comments that reference is made to a previous planning refusal for a similar café and retail use at 133 High Street (18/0182/FUL). This principally involved the change of use of a residential premise which was within an area of protected retail frontage. The reasons for refusal therefore centred on that principle, as well as the difficulties and associated impacts of its conversion.
44. These proposals under consideration are judged to be different in that they relate to a well-established commercial premises, which benefits from a large external area where there is a good degree of space and separation from the neighbouring residents. It is also not significantly different from other outside sitting areas/pavement cafes elsewhere within Norton which are connected to existing commercial uses and/or historic situations.

Anti-social behaviour:

45. Residents have raised the matter of the potential for anti-social behaviour, as a result of the proposed use of the external area. Section 17 of the Crime and Disorder Act 1998 places a duty on Local Authorities to consider crime and disorder, of which Anti-Social Behaviour is one element. In addition, paragraph 130 of the NPPF and Policy SD8 of the Local Plan, which seeks to create places that are safe, inclusive and accessible places where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.
46. Notwithstanding those considerations, the proposal relates to an existing café/restaurant use in which access will be restricted through the current premises. Whilst the fear of anti-social behaviour is understood, there is no evidence before the Council which would suggest that there is a clear and direct correlation between the proposed outdoor seating area for the existing café and anti-social behaviour. Such instances are therefore considered to be likely to be very low and would be a matter for the management to control alongside Cleveland police should specific incidents occur.

Future use/changes:

47. Concerns have been raised that the proposed development would lead to an alcohol licence and/or a change of use into a bar/public house at a future date. Whilst such concerns are acknowledged, the application is for an outdoor seating area for an existing café and only this use is for consideration. Should proposals for such a change of use/alcohol licence be sought these would be fully considered under the appropriate legislation at that time.

Increase in litter/vermin:

48. Neighbouring residents have raised concerns that the proposed external area would increase litter and would also lead to a rise in the presence of vermin within the area. The application site is an existing café/restaurant, where such issues are required to be suitably managed by the operator of the premises and such issues would not warrant the refusal of the planning application on these grounds.
49. Residents have raised the matter that the facility would not benefit from the necessary toilet facilities to serve the premises. The provision of toilet facilities are matters considered through the licencing process and are not material to determination of the planning application.

Other matters:

50. Concerns have been raised in respect to drainage and use of hazardous materials. The proposed development is not envisaged to impact on drainage at the site or introduce any hazardous materials onto the site.
51. Comments made at the committee meeting in relation to drainage/grease traps, fire risk/escape routes and lack of toilets are not material planning consideration and cannot be considered. Instead, they are a matter for consideration under separate legislation such as building regulations or environmental health.
52. Matter relating to safeguarding of neighbouring children are noted. However, there is no firm evidence to suggest that patrons of the external seating area will bring any undue risk to the children of the neighbouring properties. Without any such evidence the perception of any impacts of safeguarding would not be sufficient to justify a reason for refusal on these grounds.
53. Comments received have questioned the retrospective nature of the planning application. Whilst the comments in relation to retrospective applications are noted and acknowledged, the receipt of the partly retrospective application allows full consideration and any necessary planning issues and concerns to be addressed and controlled accordingly.
54. Neighbouring residents have questioned the need for the external seating facility. It is not the role of the planning system to question the need of the development, but rather to understand and assess the associated impacts.
55. Concerns have been raised that the proposed development would result in the devaluation of property values. Such considerations are not material to the determination of the planning application.
56. Consideration of impact on mental health is not material planning consideration and all the associated impacts have been given due consideration as part of the assessment in planning terms of the application. Such matters can therefore not be given any weight in the determination of the application.

CONCLUSION

57. Given the nature of the proposed development, associated with the existing café/restaurant, where the external area would only operate during 'day-time' hours, it is considered that the proposals would not lead to any significant levels of noise and disturbance, which would result in an unacceptable relationship for the occupiers of the surrounding neighbouring dwellings.
58. Subject to the recommended conditions, the proposed development is considered to be acceptable in planning terms and would comply with paragraph 130 and 180 of the National Planning Policy Framework and local planning policies SD8 and EG2 and consequently the recommendation for approval.

Director of Finance, Development and Business Services
Contact Officer Kieran Campbell. Telephone No. 01642 528551

WARD AND WARD COUNCILLORS

Ward	Norton North
Ward Councillor	Councillor S I Nelson LLB(Hons) BA (Hons)
Ward Councillor	Councillor Lisa Evans

IMPLICATIONS

Financial Implications: N/A

Environmental Implications: Matters relating to visual impacts, including the loss of trees and noise/disturbance have been considered in the report above, In this instance, there are not significant harmful implications

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
Planning Applications 04/1669/FUL, 08/2167/COU & 18/0182/FUL