

## PLANNING COMMITTEE

A meeting of Planning Committee was held on Wednesday 7 June 2023.

**Present:** Cllr Mick Stoker (Chair), Cllr Michelle Bendelow (Vice-Chair), Cllr Stefan Barnes, Cllr Carol Clark, Cllr John Coulson, Cllr Dan Fagan, Cllr Elsi Hampton, Cllr Eileen Johnson, Cllr Tony Riordan, Cllr Andrew Sherris, Cllr Nigel Cooke, Cllr Jim Taylor, Cllr Sylvia Walmsley and Cllr Barry Woodhouse.

**Officers:** Simon Grundy (DoF,D&R), Stephen Donaghy (DoA&H), Martin Parker (DoCS,E&C), Julie Butcher and Sarah Whaley (DoCS).

**Also in attendance:** Applicants, Agents and Members of the Public.

**Apologies:** Cllr Norma Stephenson OBE.

### **P/1/23 Evacuation Procedure**

The Evacuation Procedure was noted.

### **P/2/23 Declarations of Interest**

There were no declarations of interest.

### **P/3/23 Planning Protocol**

The planning protocol was noted.

### **P/4/23 Minutes of the meetings which were held on 15 March and 12 April 2023**

Consideration was given to the Planning Committee minutes from the meetings which were held on 15 March and 12 April 2023 for approval and signature.

RESOLVED that the minutes be approved and signed as a correct record by the Chair.

### **P/5/23 21/1270/RET 16-16A Leven Road, Norton, Stockton-on-Tees Retrospective application for change of use to café/hot food takeaway to include the installation of a flue and associated abatement system.**

Consideration was given to a retrospective planning application 21/1270/RET for 16-16A Leven Road, Norton, Stockton-on-Tees.

The application site was an end of terrace commercial unit, 16-16A Leven Road, Norton which was located to the east of Norton High Street. The premises lay within both the boundaries of Norton Conservation Area and District Centre.

Planning permission was sought retrospectively for the change of use of the property to a cafe/hot food takeaway to include the installation of a flue, following an enforcement complaint and investigation.

During the course of the application, the applicant and agent had worked with Planning and Environmental Health Officers to agree a satisfactory odour abatement system, which had recently been installed at the site.

The application was referred to planning committee as six letters of objection had been received meaning it fell outside of officer's scheme of delegation.

The consultees that had been notified and the comments that had been received were detailed within the main report.

Neighbours were notified and the comments received were detailed within the main report.

The planning policies and material planning considerations that were relevant to the consideration of the application were contained within the main report.

The Planning Officers report concluded that the proposed development subject to those conditions recommended within the main report, were considered to adequately mitigate the visual impacts on the character of the area and setting of the listed buildings. Additional measures to reduce odour had also been installed and these were all controlled along with the maintenance/servicing arrangements, ensuring satisfactory levels of residential amenity for surrounding residents.

The proposal was therefore recommended for approval subject to those considerations as detailed within the main report.

The Applicants Agent attended the meeting and was given the opportunity to make representation. His comments could be summarised as follows:

- The principal application was for a change of use and was in line with policy and was the same as others in the area.
- A lot of time had been spent on mitigating against odour and noise with a state-of-the-art filtration system and since installation no complaints had been received.
- The filtration box was a complicated system which would be regularly serviced, and which would be conditioned and maintained by a service management plan.
- All concerns had been mitigated with the main concern being the extraction flue, which had since been changed from a vertical to horizontal flue and was less visible to neighbouring properties.
- It was noted that Highways had not submitted any objections.

Ward Councillor, Councillor Steve Nelson attended the meeting and was given the opportunity to make representation. His comments could be summarised as follows:

- Councillor Nelson informed the Committee that he was speaking on his and Ward Councillor Lisa Evans behalf.

- The issues surrounding the application site had been ongoing for over three years which both Cllrs Evans and Nelson had been involved with matters and concerns which had been raised by residents.

- Several site visits had taken place alongside officers, where noise and smells had been witnessed, and since the new system had been installed the noise and smells still persisted which required addressing. It was noted however that since the new installation ward councillors had not been contacted by residents.

Objectors attended the meeting and were given the opportunity to make representation. Their comments could be summarised as follows:

- Since the installation of the new flue / filtration system, residents were still experiencing smells and noise. The smell was getting into people's homes, on peoples clean washing and was preventing some from sitting in and enjoying their gardens.

- Some residents felt the smells were escaping from the kitchen due to the kitchen door being constantly opened for delivery drivers to collect takeaway food.

- It was suggested that delivery drivers should collect food from the same place as customers at the front of the premise.

- The noise residents were experiencing was a constant buzzing / humming that carried on long after the premise closed for business.

- Some residents felt that if the issues concerning the smell was eliminated then they would be ok for the business to operate.

- The flue was still visible from some neighbouring properties.

Members were given the opportunity to ask questions / make comments. These could be summarised as follows: -

- As smells and noise were still posing a problem a suggestion was made that a condition be added to prevent the kitchen door being wedged open.

- Questions were raised in terms of how the premise had been allowed to, operate for three years without the appropriate planning permission and what had the Council been doing during this time?

- As detailed within the officer's report at paragraph 33 'Residual Matters' Members sought clarity as to how many more of these retrospective applications would come to this committee after being picked up by planning enforcement?

- Clarity was sought as to what the accumulative noise / smells would be from the pizza shop and neighbouring bakery.

- Officers were asked what the material planning considerations were for granting planning permission for a change of use from café to pizza takeaway?

- The impact of the noise and smells on the amenity of the area was discussed and a suggestion was made that Members visit the premises to appreciate this better prior to a decision being made.

- Was the noise only prevalent when the system was purged and if so, could it be conditioned that the system be purged at set times to reduce disturbance to nearby properties?
- Questions were raised relating to how noise was measured when officers visited the site. Was the noise measured in and out of the premises, and was the door closed?
- Members asked if the door was being opened for the comfort of the kitchen staff or for delivery staff?
- Clarification was sought that if Members were minded conditioning a self-closing door, would this apply to all external doors or just the kitchen door?
- Officers were asked to confirm if residents had been consulted about the application.

Officers were given the opportunity to respond to comments/issues raised. Their responses could be summarised as follows: -

- Officers confirmed to Members that a condition could be considered for a self-closing door to mitigate against odour escaping from the premises.
- It was explained that this particular planning application was submitted in 2021 and did not have the flue on the plan, however the premise had been operating prior to this. The alternative was officers refuse the application and risk losing at appeal, therefore a softer approach was adopted to reach a successful conclusion for all.
- It was confirmed that there was another premise on Leven Road with a retrospective application relating to an air-conditioning unit and another premise where negotiations were on going to get a flue removed.
- Where questions had been raised relating to accumulative noise, officers confirmed that the bakery was not using the oven flue, however in terms of the application site, officers had attended the premises three to four times and asked the applicant to turn up the system to its highest speed where noise was witnessed, however when operating at 50% speed, there was no audible noise. The only audible noise was when the system was purged. The system was suitable for stronger smelling takeaway odours than that of a pizza shop therefore making it suitable for the application site.
- Members briefly discussed the material planning considerations to be considered when granting planning permission from a cafe to a pizza takeaway. The main changes were around the impact of the flue from a visual and amenity perspective.
- The last time officers visited the application site the system was inaudible when operated at the agreed level with the client, however when the system is purged it does hum, however this is not loud.
- In terms of purging, this could not be conditioned to set times as this would need to be undertaken as and when required, for example if a pizza was burnt.
- If Members wished to add a condition for a self-closing mechanism on the door, then this could be included and would be enforceable.

- The system was intelligently designed, and with the correct management plan in place then all issues relating to noise, and smells would be successfully managed.
- The Committee were informed that the noise was from external parts of the building and not from the door being opened, these were separate issues.
- It was confirmed that the system extracted from the building to nullify odour and the door being left open could be a contribution to odours escaping.
- In terms of staff comfort, this was the responsibility of the management of the premise, for example the provision of fans for staff.
- It was clarified that residents had been consulted at the at the beginning of the application process which was required by policy / planning law.
- Officers explained that should Members be minded conditioning a self-closing mechanism, then it would make sense to condition all external doors.

A motion was proposed and seconded that a condition be included so that all external doors to the premise be fitted with self-closing devices to prevent the egress of odour and noise

A vote took place, and the motion was carried.

A vote then took place, and the application was approved with the additional condition as detailed below.

RESOLVED that planning application 21/1270/RET be approved subject to the following conditions and informatives;

#### Approved Plans

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

Plan Reference	Number	Date Received
TPS001A	10	October 2022
TPS002A	10	October 2022

#### 02. Operating Hours

The hereby approved hot food takeaway use (sui generis) shall not be open to customers outside the hours of 09:00 - 22:00 Monday to Sunday.

#### 03. Service Deliveries to the Premise

No deliveries or associated service vehicles shall serve or visit the Hot Food Takeaway outside of the hours of 07:00 - 19:00 Monday to Sunday.

#### 04. Extraction System Specification

The extraction system hereby approved shall be maintained in accordance with the submitted and approved extraction specification details as shown on drawing TPS001A (10 October 2022) and including the carbon filtration box with pre-filtration and twin carbon filters. The extraction system and carbon filtration box shall be

operated and maintained in strict accordance with the submitted service agreement (J&T Ventilation Services, dated 1st March 2023) for the lifetime of the development.

05. Paint colour of odour abatement system

Within one month of the date of this permission, the rear bend (adjacent to the Fox Almshouses) of the hereby approved odour abatement system (as indicated on plan TPS001A, 10 October 2022) shall be painted black and this paint colour shall be retained and maintained for the lifetime of the development.

06. Egress of odour

Notwithstanding the submitted information, within one month of the date of this permission, all external doors to the premise shall be fitted with self-closing devices to prevent the egress of odour and noise. All self-closing mechanisms shall remain unimpeded at all times, be maintained in a satisfactory working condition and be retained for the lifetime of the development.

**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.

**P/6/23**

**Local Plan: Housing Supply Assessment (2022 – 2027)**

Members were asked to consider and note a report that provided Members with an update on the level of housing supply in the Borough based on the 5 years starting from 1 April 2021 (2022 – 2027).

This report provided Members with an update on housing supply and delivery in the Borough. The National Planning Policy Framework (NPPF) was clear that the implications of not being able to demonstrate a five-year housing supply or pass the housing delivery test were that the NPPF 'Presumption in Favour of Sustainable Development' would apply to planning applications.

The Council adopted the current Local Plan on the 30th January 2019, following an independent examination which identified that the Local Plan was a 'sound' document.

The NPPF required Council's to update the five-year supply annually with updates published since the Local Plan was adopted. Appendix A of the main report included a further assessment which covered the period 2022 – 2027 and identified 5.21 years of housing supply.

The report also identified that the annual report was delayed following the imposition of Nutrient Neutrality and advice from DLUHC on what adjustments may be allowed for the purposes of housing land supply calculations, having not been published. In order to undertake this assessment a review of developments constrained by this issue have been considered and adjusted accordingly.

Government had not published revised Housing Delivery Test results for 2022 as yet following the consultation on planning reforms, and the latest figure remained that for 2021, in which the Housing Delivery Test for the Borough was 185% (a delivery of 2389 dwellings vs a requirement of 1291 dwellings).

Agreed that Members note the report.