

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

15 March 2023

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

22/0080/COU

9 St Peters House, Pavilion Shopping Centre, Thornaby, TS17 9FF

Change of use to hot food takeaway (sui generis) to include new extraction and installation of new shop front.

Expiry Date: 17 March 2023

SUMMARY

The application site is a ground floor unit within Pavilion Shopping Centre, Thornaby and is currently in use by Jalz Hairdressers within Class E use as a retail premise.

Planning Permission is sought for the Change of Use of the premise to a hot-food takeaway within the Sui Generis planning use class and the unit occupies 85m² of floorspace. The proposed works would include provision of a new shop front, external extraction systems to the rear of the unit and alterations to the internal layout of the unit; all of which are to accommodate the proposed use.

The application comes before Members as the application has received 47 letters of objection from members of the public and a further 2 letters of objection from Thornaby Ward councillors. The main objections to the proposed development include; that there are sufficient takeaways in the area, it would exacerbate existing traffic and parking problems, would increase noise disturbance, cooking odours and litter in the area, it would generate and worsen existing anti-social behaviour problems.

In summary, whilst it is acknowledged that there are other food outlets within Thornaby District Centre and Thornaby Pavilion Shopping Centre, it is considered that the proposed hot foot takeaway would not lead to an overconcentration of hot food takeaways within the Pavilion Shopping Centre or Thornaby District Centre. In addition to this, it's associated impacts would not significantly worsen the existing impacts of the retail centre or its users and the scheme is also not considered to have an adverse impact on the character of the area or highway safety.

The application is recommended for approval subject to conditions as set out below.

RECOMMENDATION

That planning application 22/0080/COU be approved subject to the following conditions and informative:

01 Time Period for Commencement

The development hereby permitted shall be begun before the expiration of Three years from the date of this permission.

Reason: By virtue of the provision of Section 91 of the Town and Country Planning Act 1990 (as amended).

02 Approved Plans

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

Plan Reference Number	Date Received
0000/M/100/ REV A	14 January 2022
SBC0001	17 January 2022
1.1	14 January 2022
1.3	14 January 2022
2.0	14 January 2022
2.1	14 January 2022

Reason: To define the consent.

03 External Finishing Materials

The external finishing materials shall be in accordance with the approved plan 2.1 submitted on 14 January 2022 and shall be retained for the lifetime of the development.

Reason: In the interests of visual amenity in accordance with Local Plan Policy SD8.

04 Operating Hours

The hereby approved hot food takeaway use (sui generis) shall not be open to customers outside the hours of 11:00 - 23:00 Monday to Sunday.

Reason: In the interests of the amenity of neighbouring residential occupiers.

05 Noise disturbance from vehicles servicing the premises

No deliveries shall be taken at or dispatched from the site outside the hours of 11:00Hrs and 22:30Hrs.

Reason: In the interests of the amenity of neighbouring residential occupiers.

06 Waste storage and collection

Prior to the first occupation of the hereby approved premise details of the method of storage (including locations) and arrangements for collection of waste and refuse from the premise shall be submitted to and be approved in writing by the Local Planning Authority. All waste facilities shall be provided in accordance with the approved details and shall be managed in accordance with those agreed details thereafter.

Reason: To ensure a satisfactory form of development.

07 Noise disturbance from New Plant

Prior to the commencement of the development, a noise report shall be submitted and approved in writing by the Local Planning Authority. The report shall assess and confirm that the rating level of sound emitted from the extract grill and all fixed plant associated with the development shall not exceed background sound levels by more than 5dB (A) between the hours of 0700-2300 (taken as a 1 hour LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of nearby residents.

08 Extraction and Filter installation

The extraction and odour control system shall be installed in full accordance with those details shown on drawing 0000/M/100 REV A.

Prior to first occupation of the premise and approved use, details of the Grease Filter and Pre-filter to be installed within the extraction and odour control system shall be submitted to and be agreed in writing with the Local Planning Authority. The Grease Filter and Pre-filter shall be installed in accordance with the agreed details prior to commencement of the development.

Both the extraction system and associated filters shall be maintained and serviced in full accordance with the manufacturers recommended maintenance programme and to the satisfaction of the Local Planning Authority, for the lifetime of the development.

Reason: In the interest of residential amenity.

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.

Informative: Advertisement Consent

Before any advertisement is displayed on land pursuant to this consent, the permission of the owner of that land or other person entitled to grant permission thereto shall be obtained.

Informative: Building Regulations

The applicant should be aware of their responsibilities outside of the planning process. The applicant should make contact with Building Control as they would be interested in the new shopfront, new extract systems, internal alterations, drainage and other matters.

For further advice, please email building.control@stockton.gov.uk

Informative: Registering a New Food Business

You are required to register your new business with the Environmental Health Unit within Stockton on Tees Borough Council. Please visit this web link <https://www.stockton.gov.uk/our-people/environmental-health/food-safety-and-inspections/food-premises-register/> for the Food Registration Form, complete all parts and click submit. Alternatively a word version of this form can be provided to you upon request. Please note the statute states new businesses should be registered 28 days prior to being operational. For further advice, please email

Environmental.Health@stockton.gov.uk

Informative: Cleveland Police

The applicant should make contact with Cleveland Police to consider measures to reduce crime and anti-social behaviour. Contact details are to be found at www.securedbydesign.com

Informative: Drainage - Grease Trap

The drainage system to the premises needs to be provided with a suitable grease trap in order to prevent discharge of grease into the public sewer and associated problems occurring. This is a requirement under the current Building Regulations, Approved Document Part H (H1) and the applicant should contact the Building Control department in respect to this proposal.

BACKGROUND

1. The application site was formed as part of the wider redevelopment of Thornaby District Shopping Centre (Ref: 04/1309/FUL).
2. No.9 St Peters House (Unit 18) has been occupied by the current tenant, Jalz Hair Salon, since the redevelopment of the district shopping centre.
3. The landlord has confirmed that the current tenant's lease for the unit is ending in December 2023 and they wish to re-let the unit to prospective hot-food takeaways.

SITE AND SURROUNDINGS

4. The application site is a ground floor unit (Unit 18) within Thornaby Pavilion Shopping Centre, No.9 St Peters House.
5. The site is located within a block of units which serve shopping centre uses, predominantly E Class planning use for retail purposes and some Sui Generis uses which are similar to that of a retail or shopping centre use.
6. To the north of the site is a carpark which serves the users of Thornaby Pavilion Shopping Centre and Lidl supermarket which is to the northwest of the site.
7. Immediately to the east is an adjoining unit, No.10 St Peters House (Unit 19), which is currently occupied by the Post Office. Further afield and in an easterly direction are ASDA petrol filling station and Keld House, which comprises a mix of residential accommodation on the upper floors and retail and sui generis uses to the ground floor.
8. To the south is Vale House, a block of predominantly retail premises which forms part of the conglomeration of buildings within the Thornaby Pavilion Shopping Centre. Immediately to the south of the site is a servicing yard for the units within St Peters House and Vale House.
9. Immediately to the west is the adjoining unit in retail use, No.8 St Peters House (Unit 17), which is currently occupied by Kentucky Fried Chicken (KFC).
10. At first floor above the site is Gaming Hideaway; a former office unit which has been recently redeveloped and offers video gaming experiences within the sui generis use class (Ref: 20/0584/COU).

PROPOSAL

11. The application seeks planning permission for the change of use of the unit from retail use class E, currently occupied by a hair salon, to Sui Generis use class (hot food takeaway).
12. The existing façade of the unit would be replaced with a dark aluminium framing and floor to ceiling glazing. To the rear elevation of the unit, equipment is proposed to aid with the functionality of the proposed use, including; two condenser units, two air conditioning units and three louvre vents.
13. Internally, the layout would be altered to accommodate the hot-food takeaway including waiting area to the front of the unit, serving counter, and kitchen and staff facilities toward the rear of the unit.

CONSULTATIONS

14. The following consultation responses have been received as set out below (in summary):-
15. Councillor Sylvia Walmsley – Objects to the application and change of use to a Hot Food Takeaway.

The unit is NOT vacant. It is an established hairdressing business with an outstanding reputation that still has 2 years to run on the lease with an option for the tenant to renew. This hairdressers draws in customers from the wider area, people who also shop in the centre, either before or after their appointment and adds to the diversity and viability of the centre.

The Application for Planning Permission also states that there are no members of staff as existing employees, again this is incorrect, there are four members of staff along with the Salon owner.

There is a business directly above this unit which has not been consulted Gaming Hideaway they will be directly impacted by the ventilation units under their rear windows and should be given the opportunity to comment

Whilst I appreciate that the Landlord is seeking to open up opportunities to increase the night time economy, this is not the way to do it. What is needed are drinking establishments or restaurants which encourage people to stay. A hot food takeaway would merely attract people to drive into the car park, collect their food and drive out again (or use delivery drivers).

We are rapidly reaching saturation point with hot food shops and need to retain variety and diversity within the centre. There is a KFC next door, also a fish & chip shop, pizza shop, Greggs, Copelands, Subway, Coffee Stop, Pavilion café, Asda café, and the proposed new food hall all within easy walking distance within the centre.

The current tenant has invested money into making this a high class, quality establishment which is a credit to the centre. He has had a hairdressing shop within the centre for 44 years, remaining loyal throughout the redevelopment and changes of landlord.

16. Councillor Ray Godwin – Objects to the application, the unit is NOT vacant, it is an established hairdressing business with an outstanding reputation that still has 2 years to run on the lease with an option for the tenant to renew.

This hairdressing salon has been a cornerstone of the Town Centre for over 40 years and in this location since the redevelopment, it adds diversity to the town centre by increasing scope of services offered that is fundamental to a successful town centre. Drawing in customers from far and wide who then access other businesses within the area, this is diversity and a service we cannot afford to lose.

I am also aware that the business directly above this unit has not been consulted – Gaming Hideaway – they will be directly impacted by the ventilation units under their rear windows and should be given the opportunity to comment.

Whilst I appreciate that the Landlord is seeking to open up opportunities to increase the night time economy, this is not the way to do it. The town is saturated with take aways with a high concentration in this area while the town is amongst the highest in its child and adult obesity rates. Such establishments also produce large amounts of litter and traffic flow to and from, especially in the age of fast-food delivery.

17. Highways Transport & Design Manager – No objection.
18. Environmental Health – No objections in principle, subject to recommended conditions and informatives below:

Noise

I have read the revised noise assessment for the above application. The report has updated the noise criteria which is to be achieved once new plant has been identified. As the plant has not been identified, the noise data is currently unknown and the suitability of the plant achieving the criteria has not been calculated. The report concludes that this assessment will be complete once the plant has been identified which I agree with. I have no further comments to make until the assessment has been complete.

Conditions recommended include noise disturbance from new plant, noise disturbance from access and egress to the premises, noise disturbance from vehicles servicing the premises.

Drainage

The drainage system to the premises needs to be provided with a suitable grease trap in order to prevent discharge of grease into the public sewer and associated problems occurring. This is a requirement under the current Building Regulations, Approved Document Part H (H1). The case officer should discuss with Building Control to confirm whether Building Regulation Approval is required in respect to this proposal. If building Regulation Approval is required then it is recommended that reference to the requirement of a grease trap is included as an informative on any planning permission. Should Building Regulation Approval not be required in respect to this proposal then a condition should be imposed to agree details.

Odour

I have reviewed the provisions for odour control as detailed on drawing number 0000/M/100 REV A and note that the proposal would include the use of an ESPI and an Ozone injector system. I would also request that a Grease Filter and Pre-filter are built into the odour control system. These shall be installed prior to commencement of the development and maintained for the lifetime of the proposal.

Waste Collection

There shall be provided at the premises containers for the storage and disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained, and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.

19. Cleveland Police – Informative suggested to contact Cleveland Police regarding measures to reduce crime and anti-social behaviour.
20. Land and Property Services – No comments received.

PUBLICITY

21. Publicity has been given to the planning application through a site notice and neighbour notification letters. The concerns raised within the written letters of objection have been summarised and are set out below. A full list of members of the public who objected to the application can be found in the appendices document.

- Loss of a community facility
- Bullying
- Unethical/unfair treatment of the tenant
- Detrimental to economy of the surrounding premises/economy of Thornaby
- Overconcentration of fast food takeaways
- Increase in Anti-social behaviour/crime
- Devaluation of property
- Noise pollution

- Smell/fumes
- Littering
- Obesity crisis/Health concerns
- Strain on NHS services
- Loss of social
- Loss of jobs
- Visual amenity
- Loss of diversity of premises
- Environmental impacts
- Concerns over daytime running hours/closure during the day/impression that units are empty
- Lead by example for younger generations
- Austerity
- Attraction for all members of the north east
- Parking problems
- HUDU Planning for Health (using the planning system to control hot food takeaways), also the PHE addendum published in February 2020
- Decreased footfall
- Discrepancies in supporting documents

PLANNING POLICY

22. 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.

23. 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

24. 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.

25. 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.

Paragraph 81. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

Paragraph 86. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;
- b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre.

Paragraph 92. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

Paragraph 93. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

Paragraph 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; and where crime and

disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 185. 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.

Local Planning Policy

26. The following planning policies and supplementary planning documents 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.

Policy SD4 - Economic Growth Strategy

1. Economic development needs will be directed to appropriate locations within the Borough to ensure the delivery of sustainable economic growth.

2. Proposals for the redevelopment of previously developed land, in particular prominent sites which have been derelict for a significant period of time, will be supported.

11. Proposals for new town centre uses will be directed to suitable and available sites and premises in the centres within the following Town Centres Hierarchy: Centre Tier Location Role and Function

District Centre

c. Thornaby

District centres will generally comprise groups of shops often containing at least one supermarket or superstore, and a range of non-retail services, such as banks, building societies and restaurants, as well as local public facilities such as a library.

Policy SD5 - Natural, Built and Historic Environment

l. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of ground, air, water, light or noise pollution or land instability. Wherever possible proposals should seek to improve ground, air and water quality.

m. Encouraging the reduction, reuse and recycling of waste, and the use of locally sourced materials.

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;
 - f. Existing transport network and the need to provide safe and satisfactory access and parking 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.
 5. New commercial development will be expected to provide appropriately designed signage and shop fronts.

Policy EG1 - General Employment Sites

5. Proposals which support the continued regeneration of Billingham and Thornaby District Centres will be supported.

Policy EG2 – Managing Centres

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.
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.
8. Proposed new retail and leisure uses within Billingham, Norton, Thornaby and Yarm District Centres will only be permitted where they would not have a significant adverse impact upon:

Policy EG3 – Protecting Centres

1. Subject to the scale and catchment of the proposal, retail development will be directed to suitable and available sites and premises in defined centres, as identified on the Policies Maps, in the following sequence:
 - a. Stockton Town Centre Primary Shopping Area; then,
 - b. Sites within the boundaries of Stockton Town Centre; then,
 - c. Sites within the ground floor shopping frontages of the District Centres; then,
 - d. Sites within the boundaries of the District Centres; then,
 - e. Sites on the edge of Stockton Town Centre which have the opportunity to connect to the defined Primary Shopping Area; then,
 - f. Sites on the edge of the District Centres which have the opportunity to connect to the District Centre's main shopping areas or frontages; then,
 - g. Sites within the Local Centres; and finally,
 - h. Sustainable out-of-centre locations within the limits to development.
2. Other main town centre uses will be directed to suitable and available sites and premises in the following locations, subject to the scale and catchment of the proposal:
 - a. Town and District Centres, and for office development only, Principal Office Locations; then,
 - b. Sites on the edge of the Town and District Centres, which are well served by public transport and have a high likelihood of forming links with the centre; then,
 - c. Within the boundaries of the Local Centres; then,
 - d. Sustainable out-of-centre locations within the limits to development.

Economic Growth Policy 6 (EG6) - Small Scale Facilities

1. Proposals for small-scale town centre uses and hot food takeaways designed to meet a localised catchment will be directed to defined town, district and local centres first, and then if no suitable premises are available, to existing available and suitable premises in other existing shopping parades in the catchment area of the proposal.
2. Within strategic residential, and general employment developments, where no similar facilities exist within reasonable walking distance, developers should provide new shopping, service and community facilities of a scale which meet the day-to-day needs of future occupiers, subject to taking into account the range, choice and accessibility of existing local provision.
3. Support will only be given to the development of, or change of use to, small-scale (under 150sq m) town centre uses which would meet a local need outside of defined town, district, and local centres and shopping parades where they:
 - a. Are of a scale and function intended to serve a localised catchment area;
 - b. Do not have a significant adverse impact upon the vitality and viability of any designated centre; and
 - c. Are situated within the limits to development.
4. Outside of town, district and local centres, development proposals for new hot-food-takeaways, betting offices or public houses, will be resisted where they result in a harmful over-concentration of those uses.

Policy TI2 – Community Infrastructure

2. Proposals which would lead to the loss of valued local shops, services and facilities, including public houses and village shops, and reduce the community's ability to meet its day-to-day needs will not be supported unless:
 - a. There is no demand for the facility in the locality and its continued future use would be economically unviable, or
 - b. Equivalent alternative facilities are available nearby and the proposal would not undermine the community's ability to meet its day to day needs.

Policy ENV7 – Ground, Air, Water, Noise and Light Pollution

1. All development proposals that may cause groundwater, surface water, air (including odour),

noise or light pollution either individually or cumulatively will be required to incorporate measures as appropriate to prevent or reduce their pollution so as not to cause unacceptable impacts on the living conditions of all existing and potential future occupants of land and buildings, the character and appearance of the surrounding area and the environment.

2. Development that may be sensitive to existing or potentially polluting sources will not be sited in proximity to such sources. Potentially polluting development will not be sited near to sensitive developments or areas unless satisfactory mitigation measures can be demonstrated.

3. Where development has the potential to lead to significant pollution either individually or cumulatively, proposals should be accompanied by a full and detailed assessment of the likely impacts. Development will not be permitted when it is considered that unacceptable effects will be imposed on human health, or the environment, taking into account the cumulative effects of other proposed or existing sources of pollution in the vicinity. Development will only be approved where suitable mitigation can be achieved that would bring pollution within acceptable levels.

MATERIAL PLANNING CONSIDERATIONS

27. The main considerations of this application are the principle of development, the impact on the street scene and character of the area, the impact on the amenity of neighbouring occupiers and highway safety related matters.

Principle of the Development

28. Planning Policy EG6 states proposals for town centre uses and hot food takeaways designed to meet a localised catchment will be directed to town, district and local centres first. Local Plan Policy EG3(2) states that other main town centre uses will be directed to suitable and available sites and premises principally within town and district centres. The application site is located within the limits to development and is within a defined District Retail Centre.
29. Local Plan Policy SD4 states small scale convenience facilities will be permitted in suitable and available commercial premises in District Centres providing they meet the needs of a neighbourhood and complies with policy EG6. Although the premise is currently occupied this is a matter for the tenant and landlord. Takeaway uses are ones which are directed towards defined centres as they have similar associated activities to retail and some leisure activities often found within these centres.
30. Concerns by members of the public have been made with regards to the over-concentration of hot food takeaways within the area. Local Plan Policy EG2 states that support would be given to food and drink uses providing it doesn't result in a harmful over concentration of that use as a proportion of the centre overall or as a cluster within the centre. The retail uses within Thornaby Pavilion Shopping Centre selling food for consumption include; Greggs (Class E use), Cooplands Bakers (Class E use), Subway (Class E use), KFC (Class E use), Melt Desserts (Class E). As such there are no Sui Generis hot food takeaways within Thornaby Pavilion Shopping Centre.
31. Outside of the primary shopping frontage of Thornaby Pavilion Centre but remaining within Thornaby District Centre are McDonalds (Class E use), Donatello's (Sui Generis) and Thornaby Fish and Chips (Sui Generis); all three are sited on Allensway to the north and west of the site.
32. Taking the aforementioned information into account, even though there are two hot food takeaways in Donatello's and Thornaby Fish and Chips within walking distance of No.9 St Peters House, there are no hot food takeaways within Thornaby Pavilion Centre.
33. Given that there are no hot-food takeaways within Thornaby Pavilion Centre, and in the event the application were approved, there would be a total of three takeaways across the District Centre, it is not considered that the introduction of this hot food takeaway would lead to an over-concentration of this use.

34. It is acknowledged that there are a variety of food options within Thornaby District Centre and this has been brought to the attention of the Planning Department by members of the public and ward councillors. However, Class E uses such as Greggs, McDonalds and KFC are not considered to be hot food takeaways; a more appropriate umbrella term may be "fast food". Whilst there are a variety of fast-food options within the area, the majority of which fall within the retail Class E planning use.
35. Local Plan Policy EG2(1) makes reference to harmful concentrations of 'non-retail' uses within an area. Given that, as existing, there are only two 'non-retail' fast-food options within the District Centre, it is not considered that a third additional hot food takeaway would lead to a harmful overconcentration of hot food takeaways in the area and is in accordance with Local Plan Policy EG2(2).
36. These hot-food takeaway uses are directed toward town and district centres principally due to issues such as the unsociable hours of the business, noise and disturbance, smells/fumes, and traffic problems. By directing this sort of development to town and district centres, the perceived impacts of the proposal would be lessened as they are generally away from residential premises, the infrastructure is there to support them and this form of development is to be expected in these areas.
37. In accordance with Local Plan Policy EG2(6), the impacts of the development in terms of the vitality and viability of nearby centres is also considered to be extremely limited given its small scale.
38. Taking account of the concentration of uses within the area, it is considered that the proposal would not lead to a harmful overconcentration to warrant refusal of the planning application on these grounds. Having regard to the additional local planning policies, the principle of development is considered acceptable in this instance, subject to further material considerations as outlined below.

Character;

39. Planning Policy SD8 states 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 character and sensitivity of the surrounding buildings.
40. The external works would involve a replacement shop front and the provision of the external extraction systems and air conditioning units to the rear of the building. The proposed alterations to the shop front would replace the existing large, glazed windows and entrance door with similarly large, glazed panels with dark aluminium framing and a generalised façade to make way for prospective incoming tenants to allow for individualised advertisements tailored to incoming prospective tenants' requirements. Whilst acknowledged that the front elevation of the shop would be changing, the appearance of the shop front is considered not to be dissimilar from the appearance of the existing frontage of the building and would be read as part of the units along this frontage. A condition has been recommended to secure these details.
41. Matters relating to any forthcoming signage on the unit's façade would be dealt with under a separate advertisement consent application.
42. With respect to the proposed alterations to the rear of the unit, views onto this part of site are considered to be limited and are not readily visible from the main public vantage points, views to the rear of the site are limited to users of the service yard and surrounding commercial units.
43. Concerns from members of the public were raised with regards to how the proposal may impact the character of the shopping parade. The impact on the character of an area is not something

which is purely about the visual appearance, it is also about the nature of development and how that creates a sense of place.

44. The application site is located in Thornaby District Centre, within Thornaby Pavilion Shopping Centre. Whilst it has been established that this unit would be the only hot food takeaway within Thornaby Pavilion Shopping Centre, the unit would be open during daytime and evening trading hours from 11:00 which aligns with the operating hours of many of the surrounding uses. The site would be open late until 23:00, however, there is considered to be an evening economy within the District Centre within the adjacent unit KFC open until 22:00, Donatello's until 22:30 and McDonald's and ASDA Petrol Station until 23:00. It is therefore not considered that the introduction of this use would harmfully alter the character of the area or lead to a unit appearing "empty".
45. Comments have been made with regards to the potential for the loss of a community facility. Local Plan Policy TI2 states that proposals which would lead to the loss of valued local shops/facilities and reduce the community's ability to meet its day-to-day needs. Whilst support for the current occupier is noted, it is not considered that the loss of this specific facility would fundamentally undermine the community's ability to meet its day-to-day needs.

Amenity;

46. Planning Policy SD8 seeks to provide sufficient levels of amenity for all existing and future occupants of land and buildings. Letters of objection have been received from local residents who have raised concerns with respect to the potential significant increase in noise and disturbance and associated odours and smells generating from the use.
47. Concerns have been raised that the proposal would lead to unacceptable odours and noise pollution being emitted from the site.
48. The closest residential accommodation exists to the east of the proposed takeaway use at Keld House, approximately 65 metres from the site across the Allensway highway. As part of the proposed development, two extractors, two air conditioning units and three vents are proposed to the rear of the unit.
49. The Council's Environmental Health Unit have been consulted and have considered the relationship between the proposed commercial unit and the nearby residential properties. The applicant has submitted details including noise mitigation. The Environmental Health Unit are satisfied that subject to further conditions in relation to noise and odour, the proposed development can be suitably mitigated and there would be no significant issues in respect to noise and odour for surrounding neighbouring residents in this respect.
50. With regards to the use of the site and the potential for unacceptable noise levels as a result of the increased activity associated with evening use of the premise, the unit faces into the Thornaby Pavilion Shopping Centre carpark and any noise and disturbance will generally come from the front where access is located.
51. With respect to comments received from members of the public concerning late night activity, the Environmental Health Unit consider sensitive hours to be beyond the hours of 23:00. Consequently, the requested operating hours of 11:00 until 23:00 are considered acceptable.
52. It should be noted that within the immediate area McDonalds and Asda Petrol station operate until 23:00, Donatello's until 22:30 and the adjacent unit KFC is in operation until 22:00. Therefore, there is already late-night activity within the area. Taking this into account whilst the applicant has requested hours of operation to 23:00, it is considered appropriate to restrict the operating hours to that of the adjacent units and also to restrict the hours of delivery for service vehicles until 22:30 to prevent any noise and disturbance outside the already consented hours that exist in the area.

53. Subject to the suggested conditions it is considered that any impacts in respect of odour, waste and noise nuisance can be suitably mitigated.

Anti-social Behaviour;

54. With regards to anti-social behaviour and crime, residents have raised the matter of the potential for anti-social behaviour, as a result of the proposed use. It is accepted that fear of increased crime is capable of being a material planning consideration in determining the planning merits of a scheme. 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 and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

55. Cleveland Police have been consulted on the application, no objections or concerns were received. Notwithstanding this, there has been no information submitted to demonstrate a direct correlation between the proposed use and anti-social behaviour related issues and such concerns would therefore not warrant the refusal of the planning application in this instance.

56. Section 17 of the Crime and Disorder Act requires that the planning system and the Local Planning Authority must do all that it reasonably can to prevent, crime and disorder in its area. It is noted that there are existing retail uses adjacent to the site and that objectors consider that the proposal would give rise to anti-social behaviour particularly as young people can congregate around the site. However, and as detailed above, there is no firm evidence before the Local Planning Authority which would indicate that the proposal would give rise to or increase crime or anti-social behaviour.

57. In addition, the restriction in opening hours would mean that the premise would shut at similar times to the surrounding uses, minimising the attraction to the site beyond these hours. In the event that any instances arise then this would be a matter for the appropriate authorities, such as the Police and not the planning system.

Highway Safety;

58. The Highways Transport & Design Manager has assessed the proposed development and commented that as the hot food takeaway use is likely to serve local needs, it is not expected to generate significant traffic related issues and has no objections to the proposed development.

59. Users of the hot food takeaway would use the carpark associated with the Pavilion Shopping Centre, as do the users of the existing use, and it is considered that there are sufficient parking spaces to serve the proposed use.

60. Taking account of the comments from the Highways Transport & Design Manager, it is considered that the proposal is acceptable in terms of highway safety related matters.

Residual Matters;

61. Whilst matters relating to obesity and strain on NHS services are noted, there are no specific policies within the Local Plan or NPPF which prevent hot food takeaways being opened on obesity or health related grounds. Such matters would therefore carry little weight in the determination process and would not substantiate a reason for refusal.

62. With regards to the level of consultation, letters were sent to those premises in close proximity to the site and whom could be directly affected by the proposal and also a site notice was displayed to the front of the premises advertising the proposal. It is therefore considered that sufficient consultation has been carried out.

63. Matters relating to bullying, unethical/unfair treatment of the tenant by the landlord, devaluation of property, setting an example for younger generations are considered to be immaterial to the determination of the application.
64. Comments relating to Healthy Urban Development Unit (HUDU) and Public Health England addendum are noted, however there are no national or local planning policies which prohibit hot food takeaways within the Borough. In addition, it is considered that the new planning use class system adopted in 2019 allows for the sale of 'fast foods' under use class E and requires any new hot-food takeaway to seek planning permission (sui generis use class).

CONCLUSION

65. In view of the above, the proposal does accord with the wider aims of National and Local Planning Policy. The scheme is also not considered to have an adverse impact on the character of the area, amenity of nearby premises or highway safety.
66. It is considered therefore that the proposal constitutes sustainable development which would provide economic and social benefits and by the imposition of conditions will protect the users of the surrounding area. The proposal is therefore considered to satisfy the provisions of the National Planning Policy Framework and be in accordance with the Development Plan when taken as a whole. It is recommended that planning permission be granted with conditions for the reasons specified above.

Contact Officer Joe Port. Telephone No. 01642 524362

WARD AND WARD COUNCILLORS

WARD	Thornaby
Ward Councillor	Councillor Sylvia Walmsley
Ward Councillor	Councillor Ray Godwin

IMPLICATIONS

Financial Implications: Section 143 of the Localism Act has been taken into consideration and there are no known financial considerations/implications at this time

Environmental Implications: The proposal relates to a hot food takeaway which will not have any significant visual impacts. Matters relating to the impacts on residential amenity including noise disturbance and odour nuisance and highway safety have been considered and addressed within the report, although they are viewed as having a very limited impact.

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:

The Town and Country Planning Act 1990
National Planning Policy Framework
Stockton on Tees Local Plan Adopted 2019