

COMMITTEE REPORT

Committee: East Area

Ward: Skelton, Rawcliffe, Clifton Without

Date: 12 March 2009

Parish: Rawcliffe Parish Council

Reference: 08/02511/FUL

Application at: 8 Audax Court Audax Close York YO30 4RB

For: Change of use to class use A5 (hot food takeaway)

By: Mr Ahmet Caglar

Application Type: Full Application

Target Date: 31 December 2008

1.0 PROPOSAL

1.1 This application seeks planning permission to operate a hot food takeaway (Use Class A5) from 8 Audax Close which is located off Audax Road in Clifton Moor. The site is currently vacant but was erected to operate as one of a number of office units in the area. The proposed hot food takeaway would operate from the ground floor of the premises only. The proposed operating times are 08:00 to 00:00 every day.

1.2 A license has been approved for a food business to operate from these premises. Whilst this is not a material planning consideration it does provide some useful background information. The license was granted subject to four conditions, these were: CCTV to be installed; a litter pick will take place at closing time; all sales between 23:00 and 00:00 hours shall be delivery only; and a notice is to be displayed informing customers that all sales between 23:00 and 00:00 hours will be delivery only and onsite sales shall cease.

1.3 This application is referred to Planning Committee at the request of Cllr. Moore. A site visit is recommended as objections have been raised to the proposal.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary : York City Boundary 0001

DC Area Teams : East Area (2) 0005

2.2 Policies:

CYE3B

Existing and Proposed Employment Sites

CYS6

Control of food and drink (A3) uses

3.0 CONSULTATIONS

INTERNAL

3.1 City Development - As the building is currently an office, Policy E3b needs to be considered. This policy seeks to protect employment land. Proposals for new food and drink uses need to be assessed against Policy S6.

3.2 Highway Network Management - No objections.

3.3 Environmental Protection Unit - No objections, however conditions were recommended to be included within any approval relating to delivery times and odours and fumes.

EXTERNAL

3.4 Clifton Without Parish Council - Object as the nature of the business does not fit with other businesses in the area. Late night revellers from local entertainment and sporting premises and local hostelrys are likely to meet up and create anti-social behaviour. This type of activity within a business area could be detrimental to the amenities of the area. Police presence in this area is very thin on the ground particularly at night. Should the application be approved a condition should be added whereby no food or drink is sold over the counter and only a delivery service is provided.

3.5 Rawcliffe Parish Council - Strongly object to the proposed development. It was felt that it was unacceptable to lose a small industrial/office space for a fast food takeaway. The hot food takeaway would be detrimental to the area due to the increase in litter, noise and traffic. The proposal also has the potential for an increase in crime levels considering the late hours of opening. The proposal may discourage other small businesses from setting up in the area.

3.6 Police Architectural Liaison Officer - The Safer Neighbourhood Police Officer covering Clifton Moor has no concerns regarding the proposal. However, the Police Architectural Liaison Officer himself raises concerns. Statistics show a number of crime and anti-social behaviour problems at a hot food takeaway on Clifton Moor. This shows that hot food takeaways in this area do have the potential to generate problems. The submitted Design and Access statement makes no reference to crime prevention. The proposed development would draw people into an area which is not normally visited during evening hours. Whether the CCTV system to be installed would successfully address potential crime and disorder issues remains an area of debate. Whilst not objecting to the proposal there are some reservations about the scheme and its likely impact on crime in the area.

3.7 Clifton Moor Business Association - Strongly object to the application. Audax Court is an office development and is not suitable for a hot food takeaway. The visual amenity of Audax Court and amenity of occupiers of the surrounding offices could be harmed. The area is virtually deserted outside of usual business hours and

the proposal has the potential to create crime and disorder in the area. There is no benefit in allowing these premises to become a hot food takeaway.

3.8 Third Parties - No correspondence received.

4.0 APPRAISAL

4.1 It is considered that the key issues are:

- The principle of development;
- Impact on the amenity of the area;
- Crime and anti social behaviour; and
- Car and cycle parking.

4.2 The principle of the development consists of two parts, firstly the loss of an employment site (currently use class B1) and secondly the creation of a hot food takeaway enterprise (A5). In terms of the loss of an employment site Draft Local Plan Policy E3b is relevant. This policy sets out the criteria which should be used to assess an application which seeks to change the use of land or a building away from employment (generally accepted to be Classes B1, B2, and B8) uses. Part a) of this policy requires evidence that there is a sufficient supply of employment land to meet immediate and longer-term requirements both quantitatively and qualitatively. Whilst the applicants have not submitted information to address this issue directly it is clear from the site visit that the office development around Audax Close remains largely vacant despite a large advertisement banner to the front. It is understood that just two of the eight new purpose built office units are let. The units are offered on flexible rates and have not been let despite being marketed for a significant amount of time. It is considered that this provides evidence that there is a sufficient supply of B1 office uses and in addition it is considered that the loss of this one modest unit would not impact upon the strategic employment land objectives of the Council in the future.

4.3 If part a) of Policy E3b has been met then one of parts b), c) or d) need to be satisfied. Part c) of this policy requires the development to bring benefits to the local economy. The proposed change of use would bring benefits to the local economy in that it would result in a redundant building being brought into use. Part d) states that the use is ancillary to the employment use. Clifton Moor Business Park employs a large number of people and therefore it may be argued that the proposed hot food takeaway would provide an important facility for local workers and therefore could be considered to compliment the surrounding business uses. No objections are, therefore, raised regarding the loss of the site for employment purposes as the proposal is considered to comply with the relevant criteria of Policy E3b.

4.4 Local Plan Policy S6 controls food and drink uses. Five criteria are set out which any new development should satisfy. Parts ii) and v) are not relevant for this application as it is understood that alcohol will not be sold. Part i) of this policy seeks to protect the amenities of surrounding occupiers, and issues such as traffic, noise, smell, and litter are to be considered. The application site is located within a business area with no residential units in the immediate vicinity. It is not considered that the proposed development would have any adverse impact on the living

conditions of local residents due to their distance from the site. The size of the proposed hot food premises is modest in scale and is therefore unlikely to detract from the amenities of adjoining business uses. Odours can be controlled by the fitting of a suitable extraction system which can be controlled by condition. Any potential littering from the proposed hot food takeaway is difficult to control through a planning condition. However, one of the licensing conditions is that the applicants are required to undertake a litter pick at closing time. The proposed development is considered to comply with parts i) and iv) of policy S6.

4.5 Cycle parking is also available on the site. As part of the development of the office units a secure and enclosed cycle rack was fitted which can accommodate 10 bicycles which is considered sufficient for the use. There is also off street car parking available for 8 vehicles which is likely to be sufficient for staff and customers. Therefore the proposed development is considered to conform with Policy S6 part iii).

4.6 Concerns were raised by the Parish Councils' and Clifton Moor Business Association regarding the potential for the hot food takeaway to attract people into this business area during non-business hours and the potential for this to create anti-social behaviour. The proposed business is not a large-scale operation and it is not proposed to open beyond 12 midnight. It is not proposed to sell alcohol at the premises and due to its location away from residential areas it is considered likely that the majority of customers would have food delivered to their property. It is therefore considered that the proposed development is not likely to attract a large number of walk-in customers. The Clifton Without Parish Council suggested a condition which requires all purchases being for delivery only so that people do not come to collect food. However, this is considered unreasonable and cannot be justified in planning terms. The site is considered to be in a non-sensitive area in terms of noise. For this reason an hours of operation or hours of delivery condition is also not suggested to be included in any approval.

4.7 The Police Architectural Liaison Officer raised concerns about the proposal based on the experience of another hot food takeaway in the wider area. However, no specific objection to the proposal was raised and thus it would be difficult for the Local Planning Authority to justify a refusal on the grounds of crime or anti-social behaviour at a planning appeal. Should an appeal be lodged against a refusal of planning permission, it is not usually sufficient for the Local Planning Authority to rely solely on a subjective assessment of the likely impacts of a proposal. The applicants have obtained a license in order to operate a hot food takeaway from the premises. Given that licenses can be reviewed should a problem with the operation of the business arise, it is considered that the licensing process is a more suitable control in relation to operating hours and antisocial behaviour than the planning system, which deals specifically with land use issues.

4.7 The proposed external alterations to the unit are small in scale. One window is proposed to be replaced with a louvre for extraction purposes. This change is minimal and would not affect the appearance of the unit significantly within the street scene. Two fascia signs are shown on the submitted plans. However, these are not

for consideration as part of this application and a separate application would need to be submitted and approved under the Advertisement Regulations prior to the display of the signs.

5.0 CONCLUSION

5.1 It is considered that the principle of development is acceptable. The proposed creation of a hot food takeaway is considered acceptable in terms of the likely impact on the amenity of the local area.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with the following plans:-

Drawing Number 1810-03

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Full details of the extraction plant or machinery and any filtration system to be used shall be submitted to the local planning authority for approval. The approved plant or machinery shall be installed and fully operational prior to the first use of the site for the purposes hereby approved and shall thereafter be maintained.

Reason: To minimise the impact of odour from cooking on the area.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the loss of an employment site and the impact of the proposal on the amenity of the area. As such the proposal complies with Policies E3b, GP21 and S6 of the City of York Draft Local Plan.

2. INFORMATIVE

The submitted plans show two internally illuminated signs to be erected on the premises. These have not been approved as part of this application and therefore you are recommended to contact the Local Planning Authority regarding any proposed signs before they are displayed. A separate advertisement application may be required to be submitted for consideration.

Contact details:

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