

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 10/01871/FUL
Application at: 62 Brockfield Park Drive Huntington York YO31 9ER
For: Change of use from retail (use class A1) to hot food takeaway (use class A5) and provision of external extract flue
By: Mr Imam Harman
Application Type: Full Application
Target Date: 1 November 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission for a change of use from a shop (Class A1) to a hot food takeaway (Class A5). The application site is 62 Brockfield Park Drive, which is a single storey retail unit set within a small parade of shops in Huntington.

1.2 The shop is currently vacant. The site has been subject to a number of change of use applications in the past, the two most relevant to this application are:

- change of use from retail to hot food takeaway (97/01122/FUL) – refused as the proposal was considered to potentially result in a loss of residential amenity due to the smell, litter, noise and traffic activity.
- change of use from retail to hot food takeaway (3/66/1048/FA) – refused due to impact on neighbouring amenity.

1.3 This application has been referred to the East Area Planning Sub Committee due to the high level of local interest in the proposal. A site visit is recommended in order that Members can fully understand the context of the site and the concerns of local residents.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYS6
Control of food and drink (A3) uses

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management - No objections.

3.2 Environmental Protection Unit - Assessing new information at the time of writing the report, an update is to be given at committee.

EXTERNAL

3.3 Huntington Parish Council - No objection.

3.4 North Yorkshire Police - Crime and anti-social behaviour incidents in the surrounding area are low. Hot food takeaways can attract gatherings of people particularly at night, therefore it is important that such uses are controlled to protect neighbouring amenity. Previous objections to hot food takeaways on crime and disorder grounds, both locally and nationally, have generally been overruled by the Planning Inspectorate. There is difficulty in providing hard and fast evidence that would withstand scrutiny at a planning enquiry. Taking the analysis of the area into account, there is no evidence to justify an objection to this planning application on crime and disorder grounds.

3.5 Local Residents - A petition signed by 94 local residents who object to the proposal was submitted. In addition 29 letters of objection were received, the following points were raised:

- there is already enough traffic in the area, the proposal would bring more;
- there is already a litter problem in the area, the proposal would increase this;
- there is already a late night shopping facility in the area which is used as a gathering place which gives concern to local residents;
- the hot food takeaway would produce smells which would be harmful to neighbouring amenity;
- there are already similar premises in the area, this one should be rejected;
- local youths already gather in the area which can be intimidating;
- staff would not leave the premises at 10pm which would lead to noise in the area;
- the hot food takeaway would lower the value of houses in the area;
- there has already been two applications refused at this site for hot food takeaways;
- no other shop in this area has illuminated signage and the applicants want a backlit sign, this is out of keeping with the area and would be an eyesore;
- the applicants claim that most food will be delivered, if that is the case why is there a need for illuminated signage to attract people to the shop;
- the Spar shop closes at 10pm and all activity then stops, this would not be the case with a hot food takeaway;
- any breeze would blow odours from the premises into neighbouring properties;
- people visiting the premises are likely to be youths in cars with loud exhausts and music which would be harmful to neighbouring living conditions;
- there has already been a problem in the area with the sewer becoming blocked with fat and creating bad smells, the proposal would only increase this problem;
- there is already crime and anti-social behaviour around the shops, a hot food takeaway will bring more to the area;

- parking in front of the shops is inadequate;
 - discarded food would attract vermin;
 - the opening hours seven days a week are excessive;
 - the proposal is contrary to local plan policy S6 as it would increase litter, noise, and food odours;
 - the level of public consultation was not extensive enough;
 - the proposal, if approved, may set a precedent for other similar developments in the other shops on this parade.
- to

4.0 APPRAISAL

4.1 KEY ISSUES:

- impact on the amenities of local residents;
- traffic and car parking; and
- crime and anti-social behaviour.

4.2 The most relevant Development Control Local Plan Policy is S6 which controls food and drink uses. The five criteria which should be used to assess a hot food takeaway application based on this policy are:

- impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter; and
- the opening hours are to be restricted where this is necessary to protect the amenity of surrounding occupiers; and
- car and cycle parking meets local standards; and
- acceptable external flues and means of extraction have been proposed; and
- security where the consumption of alcohol is involved have been addressed.

IMPACT ON THE AMENITIES OF LOCAL RESIDENTS

4.3 Noise - The application site is located at one end of a parade of shops which consist of a Spar retail unit, a butchers, and a hairdressers. The shop unit is vacant at the present time. Hot food takeaways have the potential to impact on neighbouring amenity, particularly if they remain open late into the evening. There are a variety of opening hours within the existing retail units along this parade, the longest hours being Spar which is understood to be open from 0630 - 2200 hours Mondays to Saturdays, and 0700 - 2200 hours on Sundays. It is proposed that the hot food takeaway would be open from 1200 midday - 2200 hours, therefore there would be no increase in opening hours within this parade of shops.

4.4 There are concerns from local residents about potential noise and disturbance from a hot food takeaway in this location. Whilst having an additional evening use in the area would increase activity at this time, it is not considered that this would necessarily be unduly harmful to neighbouring amenity. The hot food takeaway would not operate later than the Spar shop, and a condition could be included on any approval to ensure that the proposed hours of operation are adhered to and that the takeaway is closed during times, which are most noise sensitive i.e. when people are generally asleep. National planning advice contained within Planning Policy Guidance Note 24 "Planning and Noise" seeks to protect residential amenity by

controlling noise sensitive activities. Paragraph 12 of PPG24 defines the particularly sensitive parts of the day as between 2300 and 0700 hours. No activity is proposed to take place at this site during those hours and an additional condition to control deliveries outside the proposed opening hours could be included if planning permission is granted.

4.5 The applicant has employed a consultant who specialises in extraction systems. The report concluded that it was technically feasible for an extraction system to be installed, which would not harm neighbouring amenity through noise. A condition is recommended to ensure that a suitable extraction system is approved and installed prior to the first operation of the hot food takeaway. Unlike a number of hot food takeaways in the city, there are no residential units above or adjoining the premise. The nearest residential unit is approximately 9 metres from the proposed hot food takeaway, with an access drive and a garage located between the house and the proposed hot food takeaway. This dwelling would be classified as the most sensitive residential unit when assessing the proposed extraction system and it would have to be demonstrated that the proposed extraction system would protect the amenities of occupiers of this property before the condition could be discharged.

4.6 Odour - A number of letters of objection were concerned with odours and smells emanating from a hot food takeaway in the area. The consultant's report referred to above stated that whilst there are some difficulties in adequately dispersing smells because the premise is single storey only, that there are systems, which could be installed which would protect neighbouring properties from odours.

4.7 Litter - One of the reasons for refusing a previous application(ref: 99/01122/FUL) was the potential for litter generation. It is considered, however, that the majority of customers are likely to take food home or have food delivered. There is no sitting area provided within or outside the proposed hot food takeaway and therefore there is no incentive to consume the food within the area immediately surrounding the unit. However, a litter bin is provided outside the parade of shops should a customer wish to consume food in the area.

TRAFFIC AND CAR PARKING

4.8 The parade of shops along Brockfield Park Drive benefit from a number of echelon car parking spaces to the front. Visitors to any of the retail premises can use these spaces. It is estimated that around ten cars could park in this area at any time. Hot food takeaways tend to be busiest in the evening when the other retail units, other than Spar, will have closed. It is considered that there are adequate car parking spaces for visitors and delivery vehicles.

4.9 Brockfield Park Drive is a busy road for traffic as it provides access to a large number of residential units as well as being used as an access road to the surrounding area. It is not considered that the proposed hot food takeaway would have a significant impact on the level of traffic in the area or its free flow. Highways (Network Management) raise no objections to the application.

CRIME AND ANTI-SOCIAL BEHAVIOUR

4.10 An additional evening use within the parade of shops has the potential to increase the number of people visiting the area. However, this does not necessarily mean that there will be an increase in crime and anti-social behaviour. The Police Architectural Liaison Officer has concluded that there is no evidence to justify an objection to this planning application on crime and disorder grounds. A number of appeal decisions for similar proposals have been allowed as it is rarely possible to demonstrate that a hot food takeaway would bring more crime and anti-social behaviour to an area. Alcohol is not to be sold or consumed on the premise. Opening hours would be no later than an existing retail unit in the area, which already attracts people into the area in the evening. The proposal would be the only hot food takeaway within the immediate area and therefore the proposal would not result in an over-concentration of such uses.

4.11 Local residents have raised a number of concerns to the proposed hot food takeaway. The area is residential in character and does not suffer from high levels of crime or anti-social behaviour or high levels of evening activity. However it is considered that the concerns can be addressed through appropriate conditions, which will ensure that the amenity that local residents could reasonably expect to enjoy is adequately protected. Concerns regarding the devaluation of property are either not material planning considerations or are not relevant to the determination of this application.

5.0 CONCLUSION

5.1 Subject to conditions, it is considered that the impact of the proposal on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter would be acceptable, and as such the proposal complies with Draft Local Plan Policy S6. Hours of operation can be controlled by condition and would not exceed those of the adjacent Spar convenience store. Sufficient car parking is available to meet the operational needs of the proposed use and it is feasible to install an extraction system, which would satisfactorily remove odours without harming neighbouring amenity through noise.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

To be inserted

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

3 The use hereby permitted shall only operate between the hours of 1600 hours

and 2300 hours on any day. All plant and machinery shall have been switched off and all customers shall have vacated the premises by this time.

Reason: To protect the amenity of local residents.

4 The development shall not be brought into use until a scheme detailing the facilities for the treatment and extraction of fumes have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the external appearance and specification of the extraction plant or machinery or any filtration system required. The approved scheme shall be implemented before the development is brought into use and shall be retained and maintained as such thereafter.

Reason: To protect the amenity of local residents.

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 impact on the amenities of local residents as a result of traffic, noise, smell or litter,
- traffic generation and car parking, and
- crime and anti-social behaviour.

As such the proposal complies with Policy S6 of the City of York Development Control Local Plan.

Contact details:

Author: Michael Jones Development Management Officer
Tel No: 01904 551339