



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	2/11/00055/COU
FULL APPLICATION DESCRIPTION:	Change of use of existing amusement arcade to hot food takeaway (A5)
NAME OF APPLICANT:	Mr S. Ali
ADDRESS:	Ground Floor, 15 North Burns, Chester-le-Street, Durham, DH3 3TF
ELECTORAL DIVISION:	Chester North
CASE OFFICER:	Steven Pilkington Planning Officer 0191 3872145 steven.pilkington@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Context

1. The application site is located to the north of Chester-le-Street Town Centre and comprises a vacant unit formerly operated as an Amusement Arcade. Surrounding the application site other business premises and residential properties are located. The building itself was constructed in the 1970's and is a flat roofed two storey building with an public access door leading from North Burns.

Proposal

2. This application seeks consent to change the use of an existing amusement arcade to a hot food takeaway (use class A5). No external alterations are proposed with the exception of an extract flue to be located to the rear of the building. The flue will measure a diameter of 400mm, projecting past the flat roof by 0.4m.
3. This application is listed for Planning Committee as requested by Councillor John Shiell.

PLANNING HISTORY

4. 2/11/00056/ADV - Erection of internally illuminated signage reading "Dixy Chicken". Pending Consideration.
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PLANNING POLICY

NATIONAL POLICY:

5. **Planning Policy Statement 1: (PPS) Delivering Sustainable Development** sets out the Governments overarching planning policies on the delivery of sustainable development through the planning system.
6. **Planning Policy Statement 4: (PPS4) Planning for Sustainable Economic Growth.** This guidance states that the Governments overarching objective is sustainable economic growth which seeks to achieve this by improving economic performance of cities, towns and local Centres by increasing competition.
7. **Planning Policy Guidance Note 13: (PPG13) Transport.** This PPG's objectives are to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices. It also aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car.
8. **Planning Policy Guidance 24: (PPG24) Noise.** Guides local authorities in England on the use of their planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.
9. **The North East of England Plan - Regional Spatial Strategy to 2021 (RSS)** July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
10. **Policy 1: North-east Renaissance** seeks to deliver sustainable and inclusive economic prosperity and growth, and sustainable communities, capitalising on the Region's diverse natural and built environments, heritage and culture.
11. **Policy 2: Sustainable Development** sets out a series of environmental objectives, social objectives and economic objectives to address climate change issues.
12. **Policy 7: Connectivity and Accessibility** seeks to reduce the impact of travel demand by promoting public transport, travel plans, cycling and walking, and making the best use of existing resources and infrastructure.
13. **Policy 8: Protecting and Enhancing the Environment** seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.
14. **Policy 24: Delivering Sustainable Communities** requires that all development within the Region should be designed and located to deliver sustainable communities.

Proposals should assess the suitability of land for development and the contribution that can be made by design in relation to 16 detailed criteria, including concentrating development in urban locations, reducing need to travel, proximity to infrastructure, health and well-being, biodiversity and crime prevention/community safety.

15. **Policy 25 Urban and Rural Centres**, Identifies that additional town centre developments in existing designated areas should be consistent with their scale and function in order to maintain and enhance their health and vitality.

LOCAL PLAN POLICY:

16. **Policy R19: Food and Drink**. Sets out the criteria to which proposals for A3 and A5 uses should comply to, including protecting the amenity of the occupants from noise, smell, fumes, activity levels, operation hours of the site and highway safety.
17. **Policy R7: Non retail uses in Secondary Shopping Frontages** Sets out that the change of use from an A1 retail unit will only be considered acceptable where the proportion of non retail uses does not exceed 40% of the respective street level frontage.
18. **Policy T15: Access and safety considerations in design**. Identifies that development proposals should provide a safe access to the site, should not create levels of traffic which would exceed the capacity of the local road network while providing safe movement for pedestrians.
19. **Policy T17: General Transport Policy**. Sets out that all new developments should have regard to and be consistent with the provision of a safe and accessible transport network by reducing the reliance on the private car, and encouraging cycling and walking as an effective means of transport.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at www.durham.gov.uk/planning and www.planningportal.gov.uk

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. **Durham County Highways Officer** – No Objections.

INTERNAL CONSULTEE RESPONSES:

21. **Environmental Health** – No objections, but recommends that a condition be attached agreeing the exact details of the extraction system.

PUBLIC RESPONSES:

22. The application has been advertised by way of individual letters to neighbouring properties and by site notice. In total 114 letters of objection and one petition with 108 signatures objecting to the application have been received in relation to the noise and disturbance the proposal, the loss of a retail unit and highway safety concerns.
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23. The objections raised can be summarised to the following issues:-
- Visual impact of extraction on Conservation Area
 - Property should be retained as an A1 Use
 - Affect on amenity of local residents (noise and smell)
 - Increase of litter
 - Impact on the Vitality and Viability of the Town Centre
 - The proposal would not benefit the market area
 - Conflict of interest the applicant is a councillor in Newcastle
- Error in completing Certificate B certificates
- Oversupply of takeaways in the area.

APPLICANTS STATEMENT:

24. The takeaway is proposed to be located in a unit which currently served as a Amusement Arcade, outside of an A1 use Class. The property has previously been vacant over the past couple of years when an A1 use could have come in if there was a market demand. All means of extraction will be strictly controlled in accordance with Environmental Health requirements.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at the Chester-le-Street Area Office

PLANNING CONSIDERATIONS AND ASSESSMENT

25. In assessing the proposals against the requirements of the above relevant policies and having regard to all material considerations, it is considered that the following represent the principle material planning considerations.

Principle of development

26. The application site is located to the northern end of Chester-le-Street Front Street, in an area that is characterised by a mix of retail premises, professional services, cafe's, drinking establishments and residential properties. This area is located with in the Town Centre Secondary Shopping Frontage as defined on the Chester-le-Street Local Plan Proposals Map.
27. Saved Policy R19 of the Chester-le-Street Local Plan encourages new food and drink uses within the Town Centre boundary and in proximity to existing centres. However policy saved policy R7 of the Chester-le-Street Local Plan sets out that the council will seek to preserve and enhance the retail function of the Town Centre by setting a threshold of 40% of non retail frontages within the Secondary Shopping Area. At present non-retail frontages exceed this threshold by approximately 17% and therefore there is no scope for additional non-retail premises within the Secondary Shopping Area. Planning Policy Statement 4 also encourages Local Planning Authorities when considering applications for economic development, to have regard to the impact on the Vitality and Viability of Town Centres. In addition to this a significant number of objections have been received in relation to the proposed use, encouraging a retail premises as a preference .
28. However the existing use class of the property as an amusement arcade is not contained within the A1 use class (sui generis). The change of use to a hot food takeaway would therefore not fall foul of policy R7 as the percentage of non retail uses would not increase within the secondary shopping frontage. In addition to this
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the property has been vacant for approximately 2 years when no alternative use has come forward for the unit. While officers accept that the most preferential use of the property would be a retail use, in line with the objector's comments, it is considered that there is no policy justification to resist a change of use in principle.

29. Further objections have also been raised application were received questioning the need for an additional takeaway in the area. However in recently published Planning Policy Statement 4 the government sets it objectives out for economic development which includes the increase in competition between businesses and to encourage a range of complementary evening and night time uses. Overall the principle of development is acceptable subject to further detailed analysis of the potential impacts of the proposal as set out below.

Amenity of neighbouring land uses

30. The application site is located to the northern end of Chester-le-Street Front Street, adjacent the market square. This area is characterised by commercial properties; however to the rear residential properties are located 50m away. As set out in saved policy R19, food and drink development proposals are required to protect the amenity of neighbouring land users from noise, smell and activity levels. In addition to this a number of objections have been received in this application in regards to these issues.

Noise, smell and activity levels

31. As identified objections have been raised in regards to an increase in noise, disturbance and smells generated from the operation of a takeaway, The nearest residential properties to the development site is the adjacent terraced streets of Prospect Street (50m from the proposed extraction vent).
32. In taking a balanced view on the likely impacts of the new takeaway use on neighbouring land uses, against objections received and the responses of relevant consultees, it is considered that the proposed development would not give rise to an unacceptable loss of amenity caused by noise smells and activity levels. This is partially based on the advice of the Environmental Health Officer who recommends that satisfactory extraction system could be installed to adequately abate the odour and fumes generated from the cooking of food, within an acceptable noise tolerance. It is therefore recommended that a conditional approach is undertaken; requiring the full details of the extraction system to be submitted to and agreed prior to the takeaway being brought into use and would more than likely occur during the day.
33. It is accepted that the change of use would increase activity levels at the property particularly in the evening. However the only public access to the premises is located to the front elevation, facing out onto Front Street, it is considered that due to the location of this access neighbouring residents would be shielded from the vast majority of comings and goings from the premises. It is also considered that activity levels to the rear of the property will be limited and not cause significant disruption over and above the coming and goings of other businesses.
34. The applicant proposes to open to 11pm Sunday to Friday and 12pm on a Saturday. In considering these opening times officers are of the opinion that it would be unlikely to lead to a loss of amenity for any adjacent land user. This is particularly evident given the opening time of an adjacent establishment 'Brenda's Cafe' which has a
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licence to open until 1pm on a Saturday.

Anti Social Behaviour

35. As set out in PPS4 and established in case law, the Local Planning Authority when considering applications must have regard to the likelihood of crime and anti social behaviour occurring and give specific regard to:-
 - (a) The capability of any illegal activity to create a problem of major public concern having serious amenity or environmental implications
 - (b) The strength of other means of control to effectively deal with the difficulty
36. The site is located in the vicinity of Chester-le-Street's late night drinking establishments and other hot food takeaways where there is an established police presence. There is no evidence to say that one additional takeaway will lead to a marked increase in antisocial behaviour. In addition the proposed use will remain largely ancillary to the other main uses of the night time economy and is considered unlikely to attract more patrons to the Town Centre. It is therefore considered that the proposed takeaway in itself would not create a serious amenity problem of public concern over and above what could occur. There is also an established police presence in the area which regulates antisocial behaviour under separate legislative powers.
37. Objections have been received in relation to increased litter generated from the use; however the site is located within the town centre where there are a sufficient number of litter bins. The dropping of litter is also policed through the councils Environmental Services team and the police.

Highway Safety

38. The unit has no car parking associated with it, however is located adjacent the site a number of bays are present which permit parking for 30 minutes. This is considered sufficient for any passing trade to stop without creating an obstruction to this highway and for any potential deliveries. Accordingly the Highways Officer has not objections to the scheme.

Impact on character of the area

39. The only external alteration is the inclusion of an extraction flue to the roof, this will project 0.4m from the existing flat roof. Therefore when viewed from the Front Street and Town Centre Conservation Area the extraction flue will not be easily visible. In addition to this when viewed from the rear it is considered that a particularly incongruous feature will not be created due to the presence of other extraction units against the wider contrasts of commercial developments.
 40. Overall given the modest alteration to the building it is considered that the proposal will not impact on the character, appearance and visual amenity of the Town Centre Conservation Area, in accordance with policy BE4 of the Local Plan.
 41. Objections have been received that the appellant is a councillor of Newcastle City Council and had applications refused for hot food takeaways previously. However this is not considered material to the application as each application is assessed on it own
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merits against the development plans in force in the area.

CONCLUSION

42. The proposed variation has been considered against the policies identified above. It is considered that the proposal conforms to these documents as it is considered that the location of the takeaway is suitable without impacting on the vitality and viability of the Chester-le-Street Town Centre given the existing use of the property. It is also considered that the opening hours and attached conditions ensure that there will not be a significant impact on the amenity of local residents.

RECOMMENDATION

43. **That the application be APPROVED subject to the following conditions;**

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

Reason- Imposition to be required pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans unless otherwise agreed in writing by the Local Planning Authority: -

Site Location Plan, Received 7th March 2011
Proposed Floor Plan, Received 25th February 2011
Proposed Elevations, Received 25th February 2011
Proposed Elevations 2, Received 25th February 2011

Reason – To define the consent and ensure that a satisfactory form of development is obtained in accordance with policy R19 and T15 of the Chester-le-Street Local Plan

3. Prior to the commencement of the development a detailed report for a scheme of odour suppression and ventilation including the detail of any air-conditioning unit shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the agreed scheme shall be installed prior to the development/use being implemented. The apparatus shall thereafter be operational at all times while the building is in use and shall be maintained in working order in accordance with the approved details.

Reason:- To protect the residential amenity of neighbouring residential properties and to preserve the vitality and viability of the Town Centre in accordance with Policy R19 of the Chester-le-Street Local Plan.

4. Notwithstanding the submitted information the use hereby permitted shall only operate within the hours of:-

1100-2300 Monday to Friday,
1000-2400 Saturday

Reason:- To achieve a satisfactory form of development to ensure that occupants of nearby properties are not adversely affected by the development and to comply with policy R19 of the Chester-le-Street Local Plan.

REASONS FOR THE DECISION

44. The proposal is considered to accord with the aims of policies R19, T15 and T17 of the Chester-le-Street District Local Plan and is considered to be acceptable, having regard to all other material considerations. In particular the key material planning considerations relating to the Location of the development, impact on the amenity of neighbouring land users and highway safety were considered acceptable.
 45. In relation to the objections received regarding loss of amenity and the location of the development, these were not considered sufficient to warrant refusal of the planning application due to the established the attached conditions and the existing use of the property.
 46. A copy of the committee report which documents in full the Council's reason to approve the application is available upon request.
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BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Chester-le-Street local Plan
- Planning Policy Statements / Guidance, PPS1, PPS4, PPG13, PPG24
- Responses from County Highways, Environmental Health,
- Public Consultation Responses

