

Committee Report

Application No:	DC/20/00102/COU
Case Officer	Rebecca Adams
Date Application Valid	6 February 2020
Applicant	Mr M Nawaz
Site:	10 Dewhurst Terrace Sunniside Whickham NE16 5LP
Ward:	Whickham South And Sunniside
Proposal:	Change of use and conversion of existing house (C3) to A5 (Hot food) on ground floor and 2 bedroom flat (C3) on first floor. Proposed shop window to front elevation and access door on side elevation for proposed flat on first floor. To include new shopfront and extend flue to rear.
Recommendation:	REFUSE
Application Type	Change of Use

1.0 The Application:**1.1 DESCRIPTION OF THE SITE**

The application site is a two-storey end-terrace dwellinghouse to the southern end of a section of Dewhurst Terrace which is located to the western side of Gateshead Road, Sunniside.

1.2 The property fronts onto the road and benefits from an existing two storey extension and yard to the rear. The site is bordered to the southern side and rear by an access lane, with residential properties beyond to the rear along Elm Street West.

1.3 The application site is located within Sunniside Local Centre which comprises a mix of commercial and residential uses primarily along Gateshead Road to the north and south. Directly to the south of the site beyond the access lane entrance is a Pharmacy shop, and to the north is a residential property with a Post Office/Newsagents beyond. To the east of the site beyond Gateshead Road is the Sunhill Sheltered Housing which is accessed from Starling Walk.

1.4 DESCRIPTION OF THE APPLICATION

The application seeks planning permission for the change of use of the building from a dwellinghouse (C3 use class) to a hot food takeaway at ground floor level (A5 use class) and 2 bedroom flat at first floor level (C3 use class).

1.5 The application proposes external alterations to the building comprising the installation of a shop front window to the front elevation and flue to the rear elevation and creation of an entrance door to the south elevation to serve the proposed first floor flat. The existing rear yard area is proposed to serve as a

commercial and residential bin store area also indicated to contain bicycle storage.

1.6 RELEVANT PLANNING HISTORY

244/90 - Erection of two-storey extension at rear of dwelling- house to provide kitchen, bathroom and additional bedroom. Planning permission granted 10.04.1990

2.0 Consultation Responses:

None undertaken

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015 in addition to the display of a notice at the site.

3.2 One petition has been received with 80 signatories in objection to the application. The petition states 'To prevent a residential property at 10 Dewhurst Terrace being changed into a fast food takeaway - Please sign if you agree with the petition'.

3.3 Ten letters of objection have been received raising the following matters:

- There is already an overconcentration of fast food premises on Front Street
- Overdevelopment
- Out of character with streetscene
- The development would not add to the retail provision in Sunnyside
- There is an identified shortage of rental properties within the area and the proposal would remove an affordable family home
- The application is contrary to the Council's adopted Hot Food Takeaway SPD
- Health concerns
- Residential amenity issues
- Additional noise
- Littering issues
- Cooking smells and odours
- Disturbance early mornings/late evenings
- Loss of privacy
- Overbearing impact
- Inadequate car parking
- Increase of traffic
- Traffic/highways issues
- The proposal will attract potential vandals
- Devaluation of property

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS7 Retail and Centres

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

DC1H Pollution

DC1M Recycling

DC2 Residential Amenity

RCL5 District and Local Centres

RCL6 Food and Drink Uses

ENV3 The Built Environment - Character/Design

ENV61 New Noise-Generating Developments

HFTSPD Hot Food Takeaway SPD

5.0 Assessment of the Proposal:

5.1 The main planning considerations in the assessment of the application are the principle of the development; health and wellbeing; impacts upon visual and residential amenity; highway safety issues; CIL; and any other matters.

5.2 THE PRINCIPLE OF THE DEVELOPMENT

5.3 RETAIL POLICY

The application site is located within Sunnyside Local Centre. Core Strategy policy CS7 states that the vitality and viability of centres in the retail hierarchy will be maintained and enhanced. These centres will form the focal point for uses, services and facilities serving the surrounding population. In addition to meeting local needs, the role of the retail sector in attracting visitors and contributing to the economy will be supported. This is broadly supported in principle by the NPPF.

5.4 Saved UDP policy RCL5 states that within Local Centres planning permission will be granted for retail and other shopping centre uses where these maintain and enhance the vitality and viability of the centre without detracting from its

appearance or being incompatible with its scale and nature and do not result in unacceptable impacts upon amenity or highway safety.

- 5.5 Saved UDP policy RCL6 relates specifically to food and drink uses. This policy states that planning permission will be granted for hot food takeaways (A5 uses) within an existing centre where a) they do not have an unacceptable impact on road safety, the environment, amenity, the character of the surrounding area or the vitality and viability of an existing centre; and b) they would not lead to an over-concentration of such uses in any one location.
- 5.6 The proposed A5 use would fall within the definition of a main town centre use as defined by the NPPF and it is not considered to be prejudicial to the vitality and viability of the defined retail centre.
- 5.7 As such, the principle of the proposed change of use in respect of the creation of the proposed A5 use when assessed against relevant retail policy is considered to be acceptable in accordance with the NPPF, Core Strategy policy CS7 and saved UDP policies RCL5 and RCL6, as the overall vitality and viability of the centre as a whole would be maintained. The merits of the specific proposed change of use are considered below.
- 5.8 **HOUSING POLICY**
Having regard for the presence of the existing dwellinghouse the proposed creation of a 2 bedroom flat within the retail centre as part of the development would be acceptable in principle when assessed against the requirements of saved UDP policy RCL5.
- 5.9 Core Strategy policy CS10 states that 11,000 new homes (excluding purpose-built student accommodation) will be built in Gateshead over the period April 2010 to March 2030. Core Strategy policy CS11(1) requires that a minimum of 60% of new private housing across the plan area is suitable and attractive for families (i.e. homes with three or more bedrooms).
- 5.10 The proposed scheme would result in the loss of a three bedroom dwelling in place of the creation of a 2 bedroom flat; there would however be no net loss in the number of housing units and the unit would continue to contribute to housing stock in the Borough; in addition this policy is a plan-wide target. As such the development would not prejudice the overall aim of this policy.
- 5.11 It is considered that the principle of the proposed change of use in respect of the creation of the proposed C3 use is acceptable and the proposal would contribute to housing stock in the Borough. The proposal therefore accords with saved UDP policy RCL5, Core Strategy policies CS10 and CS11(1) and the NPPF.
- 5.12 **HEALTH AND WELLBEING**
Core Strategy policy CS14(3) states that: *"the wellbeing and health of communities will be maintained and improved by controlling the location of, and access to, unhealthy eating outlets"*.

- 5.13 Gateshead Council's Hot Food Takeaway Supplementary Planning Document (SPD) was adopted in June 2015. The SPD sets out the Council's priorities and objectives in relation to planning control of hot food takeaways and elaborates upon policies relating to health and wellbeing. The SPD can be afforded full weight in the decision-making process.
- 5.14 The Hot Food Takeaway SPD provides clarity on Core Strategy policy CS14 in respect of locations in which hot food takeaway (A5) premises are not appropriate. The Council recognises that one of the ways in which planning can promote a healthy community, in particular controlling the levels of obesity, is by restricting access to unhealthy eating outlets. The planning considerations relevant to the application as set out within the SPD are assessed individually below:
- 5.15 Planning consideration 2 states that *"planning permission will not be granted for A5 use in wards where there is more than 10% of the year 6 pupils classified as obese"*. The percentage of year 6 pupils in the ward of Whickham South and Sunniside who are classified as obese is 17.3% based on the most up to date data, and for this reason the application site would not be appropriate in this respect.
- 5.16 Planning consideration 4 states that *"An A5 use will not be permitted where it will result in the percentage of A5 uses in Local Centres exceeding 5% of total commercial uses"*. Based on the most up to date survey of Sunniside Local Centre the total percentage of A5 units within the centre is 10%. As such, the application would not be appropriate.
- 5.17 Planning consideration 5 states that *"A5 uses will not be permitted where they share a party wall with a residential property"*. The application proposes the creation of a C3 unit at first floor level above the proposed A5 unit, in addition to which there is a residential property at 11 Dewhurst Terrace adjoining the northern side of the site, both of which would share a party wall with the A5 unit. As such, the application would not be appropriate in this respect.
- 5.18 Planning consideration 7 relates to the 'Extraction of Odours and Noise Abatement' and states that *"A5 uses must provide appropriate extraction systems to effectively disperse odours. Such systems must:*
- 1. Have minimal impact on visual amenity, including location and external finish;*
 - 2. Be acoustically attenuated;*
 - 3. Not have an unacceptable impact on the amenity of neighbouring occupiers, for example by virtue of vibration or odour;*
 - 4. Be properly operated, serviced, cleaned and maintained in accordance with industry best practice; and*
 - 5. Where appropriate, be improved to reflect any subsequent changes in the mode or type of cooking that could increase odours.*

Extraction equipment must at least meet the minimum standards set out in the guidance on control of odours and noise produced by the Department of Environment, Food and Rural Affairs (Defra)”.

- 5.19 The NPPF establishes that the impact of noise can be a material consideration in the determination of planning applications. Paragraph 180 of the NPPF states that planning decisions should “*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 quality of life*”. Saved UDP policies DC2 and ENV61 are also relevant to the consideration of this aspect of the scheme.
- 5.20 The application indicates the proposed installation of a large flue to the rear elevation of the property which would be 5.3m in total height and would project 1.75m above the roof of the existing flat roof rear extension. Whilst the site is located within a retail centre within which flues can be reasonably expected in associated with such uses (including that to the rear of Ming Wong Chinese Takeaway at 13 Dewhurst Terrace) and the flue would be to the rear elevation of the property, by virtue of its large size and location it is considered that the proposed flue would be excessively large resulting in a prominent feature within the streetscene that would be visible from neighbouring residential properties and in this regard would have a detrimental impact upon the visual amenity of the area.
- 5.21 In addition to the above the scheme does not include any technical details of the extraction and ventilation equipment to be installed including noise levels, nor has a scheme for odour abatement and noise suppression been provided. These details are necessary as in their absence it is not possible to assess the acceptability of the proposal with regards to its impact upon the residential amenity of surrounding properties, notably the first floor flat above the application site and dwellinghouse adjoining the north elevation. As such, the application would not be appropriate in this respect in its submitted form.
- 5.22 Planning consideration 12 states that “*applications for A5 uses will be required to include a health impact assessment. Where an unacceptable adverse impact on health is established, permission should not be granted*”. A health impact assessment has not been submitted as part of the application and it is therefore not possible to fully understand the impact of the proposed takeaway on health.
- 5.23 The proposed development would not be within 400m radius of entry points to secondary schools, youth centres, leisure centres or parks as defined by the SPD or result in an over proliferation of A5 uses within the ward as set by the UK national average (0.86 per thousand people) and the application would therefore meet with planning considerations 1 and 3.
- 5.24 It is considered that the issues raised in considerations 6, 8, 9 and 10 (hours of opening, anti-social behaviour, disposal of waste products and litter) could be dealt with by condition should planning permission be granted.

- 5.25 The proposed A5 use would constitute inappropriate development in that it would lead to increased access to an unhealthy eating outlet as demonstrated by the non-compliance with the planning considerations set out within the SPD. In addition, the applicant has failed to submit any supporting information in the form of a health impact assessment which would outweigh the view taken in this regard. Furthermore, the proposed flue is considered to be unacceptable in respect of visual impact and insufficient information has been submitted in respect of a scheme for noise and odour suppression and it is therefore not possible to determine the impact of the proposal on nearby residential properties.
- 5.26 It is considered that the change of use would not support, maintain or improve the health and wellbeing of local communities and would be harmful to visual amenity and would therefore be contrary to policy CS14 of the CSUCP, the Hot Food Takeaway SPD, saved policies ENV3 and DC2 of the UDP and the NPPF.
- 5.27 RESIDENTIAL AMENITY
Policy CS11(4) of the CSUCP requires that new residential development provides *"adequate space inside and outside of the home to meet the needs of residents."* Saved UDP policy DC2 also expects that development ensures a high quality of design and amenity for existing and future occupiers.
- 5.28 The proposed first floor flat would have an internal floor area of approximately 54msq and would include two bedrooms having floor areas of approximately 17.8msq and 7.7msq and a bathroom. The flat would include a single through-room containing the living, kitchen and dining areas which would have a floor area of 16msq and would provide no built-in storage.
- 5.29 Based on the proposed design of the flat in terms of the size and layout of the living, kitchen and dining area and useable space that this would provide together with the failure to provide outside space for residents it is considered that the proposed development would fail to provide adequate indoor and outdoor living space for future occupiers as required by CSUCP policy CS11(4).
- 5.30 Gateshead Council has not yet adopted Nationally Described Space Standards (NDSS) however these standards have been considered in the assessment of this application in order to establish a benchmark value for adequate living space within the home. In this respect Policy MSGP13 of the emerging Making Spaces for Growing Spaces DPD (MSGP) is noted which requires new homes to be built in accordance with NDSS or equivalent successor standards.
- 5.31 A new single storey dwelling that provides two bedrooms suitable for three persons is required to have a minimum floor area of 61msq including 2msq of built-in storage in order to satisfy NDSS requirements and a single bedroom of at least 7.5msq and a double bedroom of at least 2.75m x 2.55m.
- 5.32 The overall floor area of the proposed unit of 54msq including no built-in storage would fail to meet with the NDSS requirement of 61msq including 2msq of built-in storage for this size of unit. The floor area of the proposed bedrooms

themselves would however meet with NDSS requirements. Policy MSGP13 and NDSS have not yet been adopted by the Council which limits the weight that can be afforded to this policy.

5.33 Based on the above assessment the proposed development is considered to be unacceptable through the failure to provide adequate indoor and outdoor living space for future occupiers and this would therefore would have a negative impact on the health and wellbeing of future residents contrary to the aims and objectives of the NPPF, policies CS11 and CS14 of the CSUCP and saved policy DC2 of the UDP.

5.34 It is considered that the proposed change of use would not give rise to any overlooking or loss of privacy, overbearing impact, loss of light or overshadowing to neighbouring properties.

5.35 VISUAL AMENITY

The application site is widely visible from within the public domain. Given the location of the unit within the local centre, it is considered that the proposed change of use to create the A5 unit and associated works to the frontage of the unit would not have an unacceptable impact upon the character of the streetscene and final details of external alterations could be secured by condition should planning permission be granted. The proposed flue is however considered to be unacceptable in terms of visual impact by virtue of its large size and location.

5.36 The proposed creation of the first floor C3 unit would not give rise to any detrimental visual impact upon the site or surrounding area. The proposal is considered to comply with policy ENV3 of the UDP, policy CS15 of the CSUCP and the NPPF.

5.37 HIGHWAY SAFETY

Paragraph 108 of the NPPF states that:

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) *appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;*
- b) *safe and suitable access to the site can be achieved for all users; and*
- c) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree”.*

5.38 Paragraph 109 continues by stating:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

- 5.39 CSUCP policy CS13 seeks to ensure that development *"connects safely to and mitigates the effects of development on the existing transport networks"*.
- 5.40 To the front of the application site along Gateshead Road are white zig-zag lines associated with a pedestrian crossing to the north with a bus stop beyond to the north. On-street parking is available beyond these restricted areas to the north and south along Gateshead Road within a short distance of the site. It is considered that there are adequate opportunities for customer parking to serve the proposed A5 use within its context within the local centre. Additionally it is anticipated that some visitors would be from within the immediate area and there is therefore potential for some customers to arrive on foot.
- 5.41 Whilst unauthorised vehicular parking may take place on the white zig-zag lines to the front of the site by customers this would not preclude a grant of planning permission and would be subject to separate parking enforcement action.
- 5.42 Having regard for the presence of the existing dwellinghouse it is considered that the proposed creation of the C3 unit at first floor level would not have an unacceptable impact upon highway safety or significant impact upon parking provision within the locality.
- 5.43 If planning permission were to be granted, conditions could be attached in respect of the provision of secure and weatherproof cycle storage to serve the proposed development as indicated on the proposed site plan, in accordance with the requirements of Gateshead Cycle Strategy.
- 5.44 The proposal would not have an unacceptable impact on highway capacity or highway safety and the requirement for parking for the use could be accommodated by existing vehicular parking provision within the area. Having regard for the objections received in this respect it is considered that on balance the proposal complies with policy CS13 of the CSUCP and the NPPF.
- 5.45 **COMMUNITY INFRASTRUCTURE LEVY (CIL)**
On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is classed as 'all other development' with a levy of £0 per square metre. Therefore, this proposal is not CIL chargeable development.
- 5.46 **OTHER MATTERS**
Representations received in objection to the application have raised matters in respect of the devaluation of property and the potential for vandalism as a result of the development. These are not material planning considerations and therefore cannot be taken into account in the assessment of this application.
- 5.47 It is considered that all other matters raised have been addressed within the body of the report.

6.0 CONCLUSION

- 6.1 In conclusion, it is considered that the proposal would be acceptable in principle and that the development would not have an unacceptable impact on visual amenity or highway safety.
- 6.2 It is however considered that the proposal would represent inappropriate development as it and would lead to increased access to an unhealthy eating outlet which is detrimental to the health and wellbeing of the local community and the applicant has failed to submit any supporting information in the form of a health impact assessment which would outweigh the view taken in this regard. The applicant has additionally failed to submit a scheme for noise and odour suppression to inform the assessment of the application. The proposed development would therefore be contrary to the NPPF, policy CS14 of the CSUCP, saved policy DC2 of the Unitary Development Plan and Gateshead Council's Hot Food Takeaway SPD.
- 6.3 The proposed development would also fail to provide adequate space within the home to meet the needs of future occupiers of the first floor flat and is therefore contrary to the NPPF, policies CS11 and CS14 of the CSUCP and saved policy DC2 of the Unitary Development Plan.
- 6.4 It is therefore recommended that the application be refused.

7.0 Recommendation

That permission be REFUSED for the following reason(s):

1

The proposal would represent inappropriate development given that it would lead to increased access to an unhealthy eating outlet and is therefore contrary to the NPPF, the Hot Food Takeaway SPD and policy CS14 of the CSUCP and Urban Core Plan.

2

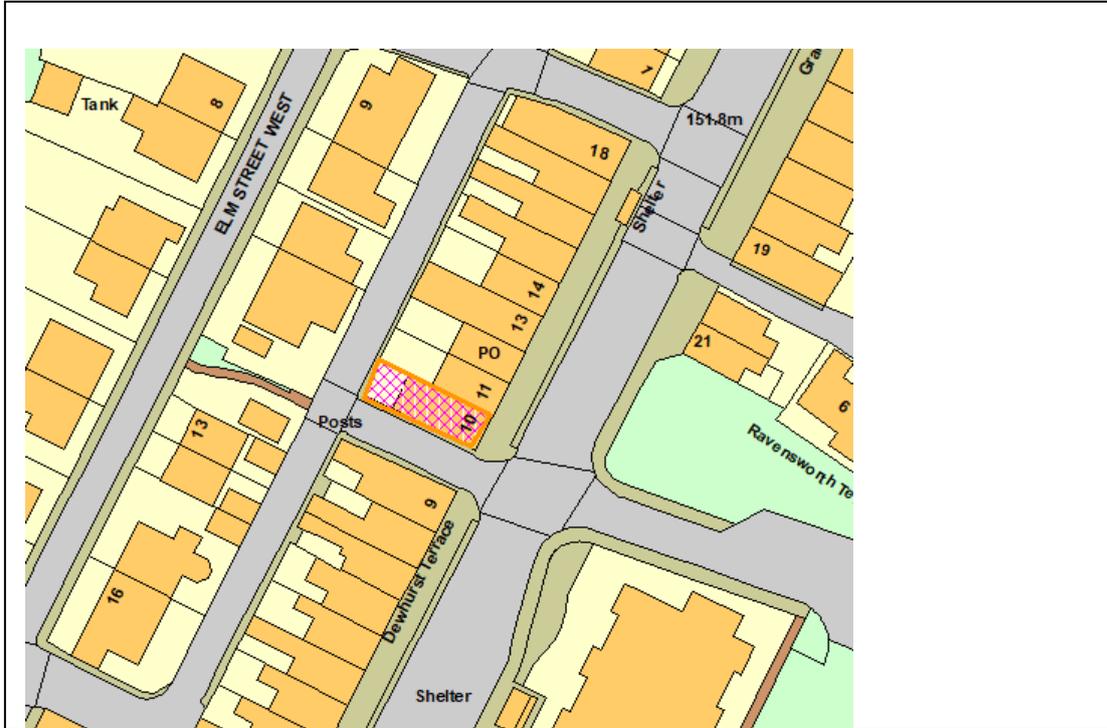
Insufficient information in regard to a scheme for noise and odour suppression has been submitted and it is therefore not possible to determine the impact of the proposal on the residential amenity of the flat above and surrounding neighbouring properties. The proposal is therefore contrary to the NPPF, the Hot Food Takeaway SPD, policy CS14 of the CSUCP and Urban Core Plan and saved policy DC2 of the Unitary Development Plan.

3

By virtue of its size and location it is considered that the proposed flue would constitute a prominent feature within the streetscene to the detriment of the visual amenity of the area. As such, it is considered contrary to the NPPF, the Hot Food Takeaway SPD, policy CS15 of the CSUCP and Urban Core Plan and saved policy ENV4 of the Unitary Development Plan.

4

The proposed development would not provide adequate space inside and outside of the home to meet the needs of future occupiers of the first floor flat. The proposal is therefore contrary to the NPPF, policies CS11 and CS14 of the CSUCP and policy DC2 of the Unitary Development Plan.



This map is based upon Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Gateshead Council. Licence Number LA07618X