

EXCHANGE HOUSE CROSS HEATH NEWCASTLE UNDER LYME
MR KULVINDER KANDOLA

13/00946/FUL

The application is for full permission for the change of use of an existing commercial unit into Pizza Hut delivery store (Class A5) with minor external modifications and installation of new extraction flue with inline odour control unit.

The site is within the urban area of Newcastle as defined on the Local Development Framework Proposals Map.

The application has been called to Committee for decision by two Councillors due to residents' concerns about advertising signage boards; opening and closing time; anti-social behaviour and flues and filtering systems.

The statutory 8 week period for the determination of this application expires on 3rd February 2014.

RECOMMENDATION

Permit subject to conditions relating to the following matters:-

- 1. Standard Time limit;**
- 2. Approved plans/drawings/documents;**
- 3. Hours of use restricted to 9am to 12pm on Monday to Saturday, and 9am to 11.30pm on Sundays and bank holidays;**
- 4. Building materials to match existing;**
- 5. CCTV provision to ensure that any potential harm to the living conditions of nearby residents is adequately controlled;**
- 6. No deliveries or waste collection before 7am and after 11pm on any day;**
- 7. Prior approval of fume extraction system, implementation prior to use commencing and maintenance thereafter;**
- 8. External motors to refrigerated vehicles to be turned off before vehicles delivering to the premises turn into Wilton Street and not started until they have left Wilton Street**
- 9. Prior approval of refrigeration and air conditioning plant;**
- 10. Prior approval of grease and food traps;**
- 11. Prior approval of refuse storage and collection arrangements;**
- 12. Prior approval of arrangements for the collection and disposal of litter resulting from the use;**
- 13. Implementation, and maintenance, of details in the submitted Light Pollution Survey;**
- 14. Prior approval of parking and turning of vehicles and provision before use commences.**

Reason for Recommendation

Subject to conditions, it is not considered that there would be any significant adverse impact on residential amenity as was concluded by the Planning Inspector in the appeal decision relating to the refusal of 12/00788/FUL. It is not considered that highway danger would arise and as such an objection could be sustained on the grounds of impact on highway safety. It is considered that the proposal will not result in any visual harm. The proposal accords with Strategic Aim 5 and Policies SP1 and CSP1 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, policy T14 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework 2012.

Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application

This is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Policies and Proposals in the approved Development Plan relevant to this decision:-

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026 adopted 2009 (CSS)

Strategic Aim 5: To foster and diversify the employment base
Strategic Aim 7: To help Newcastle Town Centre to continue to thrive
Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhood Area Spatial Policy
Policy CSP1: Design Quality

Newcastle under Lyme Local Plan 2011

Policy T14: Development and the Highway Network
Policy T16: Development – General Parking Requirements

Other material considerations include:

National Planning Policy

National Planning Policy Framework (NPPF) (2012)

Supplementary Planning Guidance/Documents (SPGs/SPDs)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (Nov 2010)
Hot Food Takeaways (February 1996)

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Relevant Planning History

2001	01/00094/COU	PERMIT	Conversion of sub-station to offices
2012	12/00190/COU	PERMIT	Change of use to pre-school nursery
2013	12/00788/FUL	REFUSE	Change of use from combined Class D1 (non-residential institution) and Class A1 (shops) use to a Pizza Hut Delivery Store falling within Class A5 (hot food takeaway) together with a new external façade. A subsequent appeal was dismissed on the design grounds.

Views of Consultees

The **Environmental Health Division** comment that they are unable to recommend approval of this application due to the lack of information for the odour control and fume arrangements as detailed in 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' DEFRA January 2005.

However, should the applicant be able to provide information to overcome this they recommend appropriate approval with conditions. At this stage, the following conditions should be sought:

1. Construction hours
2. Dust mitigation
3. Deliveries and collections to the store
4. Refrigerated deliveries
5. The premises shall not be open for business before 09:00 am or after 23:00 hours on any day.
6. Car Park

7. Litter disposal and collection arrangements
8. Customer noise
9. Light pollution
10. Fume extraction system
11. Cessation of cooking in the event of a problem
12. Air cooling/extraction system
13. Grease trap
14. Artificial Lighting
15. Importation of waste materials to facilitate construction

The **Highway Authority** has no objections subject to a condition being included that no development should be commenced until details of the parking and turning of vehicles within the curtilage of the site have been submitted to and approved in writing by the Local Planning Authority.

The **Police Architectural Liaison Officer** retain their concerns expressed in the consultation response to the original application for this site (12/00788/FUL) of the potential for the location to impact negatively upon the residential amenity of local residents in terms of noise and anti-social behaviour. The inappropriateness of the proposed opening hours (until 0200 hours each day) for a location immediately abutting a residential area is equally pertinent for this application. Request that should this application be successful appropriate planning conditions are imposed in relation to opening hours and CCTV provision to ensure that any potential harm to the living conditions of nearby residents is adequately controlled.

The views of the **Waste Management Section** have been sought and any comments received will be reported.

Representations

One letter of objection has been received raising the following concerns;

- Traffic noise and danger;
- Anti-social behaviour;
- Already problems with smells from KFC and the proposal will increase odour;
- Fall in property values;
- Excessive lighting;
- Illuminated signs;
- Health Issues;

Applicant/agent's submission

A Design and Access Statement has been submitted the main points of which are set out below:

- The building will remain as current.
- The layout will have a customer waiting area within the building.
- Signage and external cladding will be to Pizza Hut corporate image.
- 10 parking spaces will be provided, with additional space for delivery vehicles and refuse vehicles.
- The current building has no specific elements of special interest, there will be not substantial alteration.

This document is available for inspection at the Guildhall and on www.newcastle-staffs.gov.uk/planning/ExchangeHouse

Key Issues

This application is a re-submission of application 12/00788/FUL. This was refused by Planning Committee on 5th February 2013 on grounds of: appearance; and loss of residential amenity. At a subsequent appeal the Inspector found in favour of the appellant in relation to the substantive issues concerning the impacts of the proposal on the living conditions of

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residents and on local service provision. The appeal was, however, dismissed as the Inspector considered that the proposal would be unacceptable due to its impact on the character and appearance of the immediate area as that proposal involved significant alterations to the appearance of the building.

Full planning permission is again sought for a change of use of the premises from a combined Class D1 (non-residential institution) and Class A1 (shops) use to a Pizza Hut Delivery Store falling within Class A5 (hot food takeaway). This time, however, only minor external alterations are proposed. The property is within the urban area of Newcastle as defined on the Local Development Framework Proposals Map.

The principle of the proposed use was considered to be acceptable by the Inspector at appeal, and there have been no material changes in planning circumstances since the appeal decision. In addition highway safety issues were neither a reason for refusal nor a concern for the Planning Inspector. In light of that it is considered that the key issues to be addressed in the determination of this application are the following:

- Would the proposal cause harm to the occupiers of neighbouring properties?
- Would the proposal be detrimental to highway safety?
- Are the external alterations to the property acceptable in appearance?

Would the proposal cause harm to the occupiers of neighbouring properties?

The application is for a Pizza Hut delivery store. The proposal involves the preparation of hot food for delivery and collection and as such has the potential to cause nuisance from noise, odours and anti-social behaviour.

The Planning Inspector when determining the appeal noted the Council's concern with the cumulative impact of fumes and anti-social behaviour on local residents and that the area already has a strong and pervasive background odour of fried food. Also noted was that this has been one of the factors that have led a number of local residents, living on Hassam Avenue and Hughes Road, to object to the proposal. The applicant had, however, submitted technical specifications and installation plans for modern fume extraction equipment. Whilst the technical specifications showed that this is designed for odour reduction, rather than elimination, it was nonetheless the Inspector's view that satisfactory operation of the proposed development could be achieved through a suitable condition. Notwithstanding the concerns raised by the Environmental Health Division with regard to the acceptability of the details submitted the conclusion of the Inspector remains valid and a condition could be imposed to secure the prior approval of the fume extraction system, and its implementation prior to use commencing and maintenance thereafter.

As concluded by the Planning Inspector noise and anti-social behaviour can be addressed through the imposition of a condition restricting hours of opening. The Environmental Health Service recommends a closing time of not later than 11.00 pm every day. The adopted SPG on Hot Food Takeaways allows for closing times of midnight on Monday to Saturday, and 11.30 on Sundays. It would be difficult to impose 11.00pm as it is more restrictive than adopted guidance; however it would be reasonable and justified to impose a condition restricting the hours of opening in accordance with the adopted guidance, notwithstanding that the application seeks longer hours of opening to 2am everyday.

Taking on board the comments of the Police Architectural liaison Officer and following the Supplementary Planning Guidance on Hot Food Takeaways, subject to the imposition of the Planning Conditions requested by the Environmental Health Service there will be no material adverse effect to the living conditions of nearby residents that would justify the refusal of the application, even when the cumulative impact of a number of such uses on Liverpool Road are taken into consideration.

Are the alterations to property visually acceptable?

The building is single storey, built in brick with a tile roof. In rejecting the appeal the Inspector noted that the existing building is clearly related to the properties immediately to the rear and side of the site. This is because they are constructed from similar materials and also have pitched roof designs. This residential backdrop gives the building a clear architectural context that would have been disrupted by the proposal.

In contrast to the metal cladding proposed in 12/00788/FUL the present proposal makes little change to the existing building. The changes proposed involve extending the centre window on the north (entrance) elevation down to ground level, as would the small side window in the west elevation; and an extraction flue would be erected in the quadrangle between the two parts of the main building. The alteration to the windows would not affect the character of the building and with the flue being largely hidden by its location between the two parts of the main building the appearance of should be acceptable. The submitted plans show removal of the board between the gables on the north elevation enhancing the shape and materials of the original building.

It is considered that the application could be resisted on appearance grounds and that the proposal would be acceptable.

Background Papers

Planning File
Development Plan

Date report prepared

13th January 2014