

123 LIVERPOOL ROAD, CROSS HEATH, NEWCASTLE  
MR S SRITHARAN. 12/00475/FUL

**The Application** is for full permission for the change of use from a Doctors surgery, Class D1 of the Use Classes Order, to a use falling within Class A3/A5 hot and cold food restaurant/takeaway. A single extract duct is also proposed on the rear elevation, the bricking up of a window on the frontage and the introduction of a door on the side elevation.

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 by two Councillors for decision due to residents concerns over highway safety and anti-social behaviour. These premises are between Roberts Avenue and Hassam Avenue, which are both extremely busy junctions. There is no parking to these premises. There is a pedestrian gap right outside these premises which is used by locals opposite and nearby. The entrance to Kentucky Fried Chicken cannot be seen when cars are parked on this stretch of highway and make it extremely dangerous for pedestrians. There is an off license next door whose license is currently under review by the police and trading standards. There is always anti-social behaviour outside these premises due to the dependent drinkers who come up from the town for cheap drinks. The flu extraction will be unsightly and will be close to residential properties.

**The statutory 8 week period for the determination of this application expires on 24 October 2012.**

#### **RECOMMENDATION**

**Permit subject to conditions relating to the following matters:-**

- (i) **Standard Time limit.**
- (ii) **Approved plans/drawings/documents.**
- (iii) **Hours of use restricted to 9am to midnight on Monday to Saturday, and 9am to 11.30pm on Sundays and bank holidays.**
- (iv) **No deliveries or waste collection before 7am and after 11pm on any day.**
- (v) **Prior approval of fume extraction system, implementation prior to use commencing and maintenance thereafter.**
- (vi) **Prior approval of refrigeration and air conditioning plant.**
- (vii) **Prior approval of grease and food traps.**
- (viii) **Prior approval of refuse storage and collection arrangements.**
- (ix) **Prior approval of arrangements for the collection and disposal of litter resulting from the use.**
- (x) **Restriction on occupation of the flat above.**
- (xi) **Provision of staff parking to the rear.**
- (xii) **Prior approval of appearance and colour of external flue to fume extraction system, and implementation in accordance with the approved details.**

#### **Reason for Recommendation**

Subject to conditions, it is not considered that there would be any significant adverse impact on residential amenity. Whilst no on site customer parking is proposed it is not considered that highway danger would arise and as such it is not considered that an objection could be sustained on the grounds of impact on highway safety. Subject to a condition requiring the finished colour of the proposed extract flue and matching materials for the window to be bricked up it is considered that the proposal will not result in any visual harm. The proposal accords with Policies D1, D2 and TC4 of the Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011, Policy R15 of the Newcastle-under-Lyme Local Plan 2011 and the aims and objectives of the National Planning Policy Framework 2012.

## **Policies and Proposals in the Approved Development Plan Relevant to This Decision:-**

### **West Midlands Regional Spatial Strategy 2008 (RSS)**

Nil

### **Staffordshire and Stoke-on-Trent Structure Plan 1996-2011**

Policy D1: Sustainable Forms of Development  
Policy D2: The Design and Environmental Quality of Development  
Policy T12: Strategic Highway Network

### **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 R15: Non-retail uses in District Centres and other Groups of Shops  
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)

## **The Secretary of State's Announcement of His Intention to Abolish RSS**

The Secretary of State has made it clear that it is the Government's intention to revoke RSSs and the Localism Act 2011, which includes powers to give effect to that intention, received Royal Assent on 15 November 2011. However, pending the making of a revocation order in accordance with the new Act, the RSS remains part of the statutory development plan. Nevertheless, the intention to revoke the RSS and the enactment are material considerations.

## **Relevant Planning History**

N16861		Permit – change of use of premises to ground floor waiting room and doctor's surgery (which is use class D1) and first floor living accommodation.
1992	92/00198/FUL	Permit – extensions and alterations to existing surgery.
2003	03/00132/FUL	Permit - security shutter.
2010	10/00573/COU	Refuse – change of use from medical surgery (D1) to shop (A1).

## **Views of Consultees**

The **Environmental Health Division** has no objections to this application subject to the following conditions:-

- works of demolition and construction;
- hours of use and deliveries;
- restriction on occupancy of flat above;
- fume extraction;
- air cooling/air extraction equipment;
- prevention of food and grease debris from entering the drainage system;
- refuse storage, waste collections and deliveries; and litter disposal and collection arrangements.

The **Highway Authority** has no objections subject to a condition being included on any approval that the parking area off Roberts Avenue being retained for staff parking for the life of the development. They consider given the existing use of the site and that there is a Newsagents/Off License operating in the adjacent property which is open throughout the day into the lay evening, this proposal will be difficult to resist on highway grounds. They further advise that no contribution to NTADS is being sought as the proposed use will not generate sufficient additional trips onto the highway network within the PM peak given the permitted use of the site as a Doctor Surgery.

The views of the **Police Architectural Liaison Officer** have been sought and any comments received will be reported.

### **Representations**

Three letters of objection have been received raising the following concerns:-

- Amount of noise, people etc that the proposed use will attract.
- Already problems with smells from KFC and the proposal will increase odours.
- There is no need for more takeaways.
- Since KFC opened traffic has increased causing the use of the trade entrance and extra traffic in Hassam Avenue. The proposal will cause congestion due to parking on the dual carriageway and could affect the nearby crossing.
- Parking will take place in nearby streets causing extra problems.
- KFC has lead to an increase in litter and antisocial behaviour which will get worse as a result of the proposal.

### **Applicant/Agent's Submission**

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

- Opening hours would be 10.00am – 4am, closing would probably be earlier on Sundays and Bank Holidays.
- The kitchen and flue would be located in the single storey rear outrigger; the flue would accordingly be as far as possible for the first floor residential space and would be designed, manufactured and installed by a commercial ducting company.
- Access to the flat would be changed from internal to from the side alley.
- One of the shop front windows is to be infilled with matching brickwork and a new shop-front fitted.
- Parking would be restricted to local side streets, it is anticipated that much custom would be on foot.

This document is available for inspection at the Guildhall and on [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk)

### **Key Issues**

The application is for the change of use of a vacant doctor's surgery to a restaurant/takeaway falling within Classes A3/A5. The property is one of a semi-detached pair on the A34 Liverpool Road dual carriageway. The proposal involves the bricking up of a large window on the frontage of the property, the introduction of the doorway on the side elevation to gain access to an existing flat at first floor, and the installation of a single extract duct to the rear elevation.

The key issues to be considered in the determination of this application are the following:-

- Is the principle of the change of use acceptable?

- Would the proposal cause harm to the occupiers of neighbouring properties?
- Would the proposal be detrimental to highway safety?
- All the alterations to the property visually acceptable?

#### Is the principle of the change of use acceptable?

The proposed use is located in a group of 3 buildings between Roberts Road and the site of a fast food restaurant (Kentucky Fried Chicken). The ground floor of the application site has for a long time been vacant, before that it was in use as a doctors' surgery. The neighbouring premises are in retail use; the adjoining semi is a general/ grocery/off-licence store and the adjacent detached property is a bed store.

The A34, Liverpool Road, is characterised by a mixture of uses including a number of commercial uses further along its frontage including shops, takeaways and motor-car services, intersperse with some residential.

As the site is one of a group of three buildings and not all are currently in retail use the proposal will not conflict with Policy R15 of the LP and there are no specific policies that are relevant to the consideration of the proposed use. Overall it is considered that the introduction of a further hot food takeaway would be acceptable in land use terms.

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

Supplementary Planning Guidance on Hot Food Takeaways gives advice on the suitability of this type of use in different areas. As indicated above, the property is within a mixed commercial and residential area and in considering the advice in the SPG it is considered that the site falls within Category C2 of that Guidance – a mixed commercial area where hot food takeaways are not ruled out.

The applicant has indicated that the intended opening hours are up to 4am on most days, however in line with recommendations of the SPG the opening hours of the use should be restricted to no later than midnight on Monday to Saturday and 11.30 pm on Sundays and Bank Holidays. It is considered that by conditioning such opening hours there will be no adverse effect to the living conditions of nearby residents that would justify the refusal of the application.

There is the potential for use to result in odour nuisance, however provided that appropriate conditions are imposed upon an approval of planning permission, relating to ventilation and odour control systems, it is considered that the proposal would be acceptable in this regard.

#### Would the proposal be detrimental to highway safety?

Policy T14 considers that development that would significantly harm the safety and efficient use of the highway network should not be permitted. The A34 Liverpool Road is part of the Strategic Highway Network where the maintenance of the free flow of traffic would be an important objective (although not the sole one).

There is no off-street parking available in the vicinity, on street parking is possible outside the premises and in the adjacent residential Roberts Avenue. Notwithstanding this the Highway Authority has raised no objections to the proposal. On street parking, including parking on the A34, currently takes place in connection with the adjoining unrestricted retail uses and as such could take place at any time during the day and night. In addition the current lawful use of the premises would generate a demand for parking which cannot be met on site. Any additional on street parking over and above that generated by the existing lawful use would not be to the extent where obstruction or danger to other highway users would occur. As such and in light of the recommendation of the Highway Authority it is considered that the proposal would not be detrimental to highway safety.

#### Are the alterations to property visually acceptable?

The bricking up of the front window is proposed to enable a staircase to be created internally that would serve the flat above. This will result in an imbalance in the appearance of the pair of properties, however this is not considered to be unacceptable given that there already exists an imbalance as a result of an extension on the adjoining property and bearing in mind that currently there is a large roller shutter that spans the entire property frontage.

The proposed flue to the rear will be visible from Roberts Avenue, however provided it is of a recessive colour it is considered that no harm will arise.

**Background Papers**

Planning File

Development Plan

National Planning guidance/statements

**Date Report Prepared**

3 October 2012