

EXCHANGE HOUSE CROSS HEATH NEWCASTLE UNDER LYME  
MR KULVINDER KANDOLA. 12/00788/FUL

**The Application** is for full permission for the 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 facade.

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 about over-intensification of takeaways on the A34, and that there should be more varied businesses. Residents feel takeaways are not helping to promote healthy eating in an area where health and well being are causing concern. Residents have concerns over traffic: - whether there is enough parking on the site, there are both a café and takeaway on the corner of Wilton Street, opposite – vehicles may park opposite them; – Heavy Goods Vehicles exiting DK Motorcycles around the corner use Wilton Street as an exit.

The statutory 8 week period for the determination of this application expires on 6<sup>th</sup> February 2013.

**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 12pm 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) External motors to refrigerated vehicles to be turned off before vehicles delivering to the restaurant turn into Wilton Street and not started until they have left Wilton Street.
- (vii) Prior approval of refrigeration and air conditioning plant.
- (viii) Prior approval of grease and food traps.
- (ix) Prior approval of refuse storage and collection arrangements.
- (x) Prior approval of arrangements for the collection and disposal of litter resulting from the use.
- (xi) 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. 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 Policies D1, D2 and T13 of the Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011 and 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:-**

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  
Policy T13: Local Roads

## 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)

## 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

2001 01/00094/COU Permit - conversion of sub station to offices  
2012 12/00190/COU Permit - change of use to pre-school nursery

## Views of Consultees

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

- works of demolition and construction;
- dust mitigation measures;
- external motors to refrigerated vehicles to be turned off before vehicles delivering to the restaurant turn into Wilton Street and not started until they have left Wilton Street.
- hours of use and deliveries;
- Waste collection;
- fume extraction;

- air cooling/air extraction equipment;
- prevention of food and grease debris from entering the drainage system;
- refuse storage, waste collections; and litter disposal and collection arrangements

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

### **Representations**

Seven letters of objection have been received raising the following concerns:

- Amount of noise, people etc that the proposed use will attract.
- Anti-social behaviour.
- Already problems with smells from KFC and the proposal will increase odours.
- There is no need for more takeaways.
- Public Health and obesity.
- Attract rats and other vermin.
- Parking will take place in nearby streets causing extra problems as very little parking at the site.
- Increase in traffic resulting in danger to pedestrians.
- Danger to A34 traffic from vehicles entering and leaving the site.
- 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:

- The building will remain as present but with a new external facade.
- 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.

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

### **Key Issues**

Full planning permission is 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) together with a new external facade. The property is within the urban area of Newcastle as defined on the Local Development Framework Proposals Map.

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?
- Are the external alterations to the property acceptable in appearance?

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

The site is situated around 600m north of the town centre. It is a single storey freestanding detached building with a parking area and is located on the A34 Liverpool Road but takes its access from Wilton Street. The A34, Liverpool Road, is characterised by a mixture of uses including a number of commercial uses further

along its frontage, within 100m of the site, including shops, takeaways and motor-car services, interspersed with some residential. There is a residential area to the rear.

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 – with predominantly residential use within 100m of the proposed site but where further groups of commercial uses would be encountered in most directions within 100m. Within Category C2 areas hot food takeaways are not ruled out. Only within Category A (primarily residential) areas does Guidance normally prohibit hot food takeaways.

Other factors which the SPG takes into account are traffic and parking, and cooking odours (which are considered below), and cumulative effect and the impact that this has on amenity (again considered below) and effect on the character of the area.

The building is close to but is not within a group of commercial properties and as such is in a location which is not covered by policy which seek to retain retail uses to protect the range of goods and services offered in the locality. In view of this the introduction of a further hot food takeaway would in principle be acceptable in land use terms.

Whilst the health issues arising from a hot food takeaway is a material planning consideration in the absence of planning policy that address this concern a refusal on this basis, as suggested in representations, could not be sustained at appeal.

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.

Whilst there are residential properties in the vicinity of the site the issue of noise can be addressed through the imposition of conditions. 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 reasonable and justified to impose a condition restricting the hours of opening in accordance with this adopted guidance, notwithstanding that the application seeks longer hours of opening (2am on Sunday-Friday and 4am on Saturday).

The operation of an extraction system to address cooking odours could be secured by condition and as such a refusal on this ground could not be sustained.

It is recognised that hot food takeaways in a locality can lead to customers lingering, however substantive evidence must be provided to demonstrate that the proposed use would lead to a material increase in anti-social behaviour to justify a refusal on this basis.

It is considered that by conditioning opening hours in accordance with Supplementary Planning Guidance on Hot Food Takeaways 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.

Would the proposal be detrimental to highway safety?

Policy T14 of the Local Plan states 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).

The Highway Authority has raised no objections to the proposal. The development would use an existing entrance onto a side road and provides ten parking spaces on site. The existing uses of the building would generate a demand for parking and any additional parking requirements of the proposed use over and above that generated by the existing lawful use would not be to the extent where obstruction or danger to other

highway uses 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 building would be clad on all the sides open to public view. As it stands this is a comparatively small utility building built in brick with a roof in three double pitched sections. The development would cover the existing exterior open to public view with an external new metal clad façade system. The cladding (and the signs it would carry which would require advertisement consent) is represented as being more in keeping with the Pizza Hut corporate image. It would have no reference to the locality but with the variety of design and materials that exist in the surrounding buildings this will have no material effect on the built character of the area.

It is considered that in the existing circumstances the appearance would be acceptable. Any external extraction flue which is required and is visible will require further planning permission.

**Background Papers**

Planning File

Development Plan

National Planning guidance/statements

**Date Report Prepared**

21 January 2013