

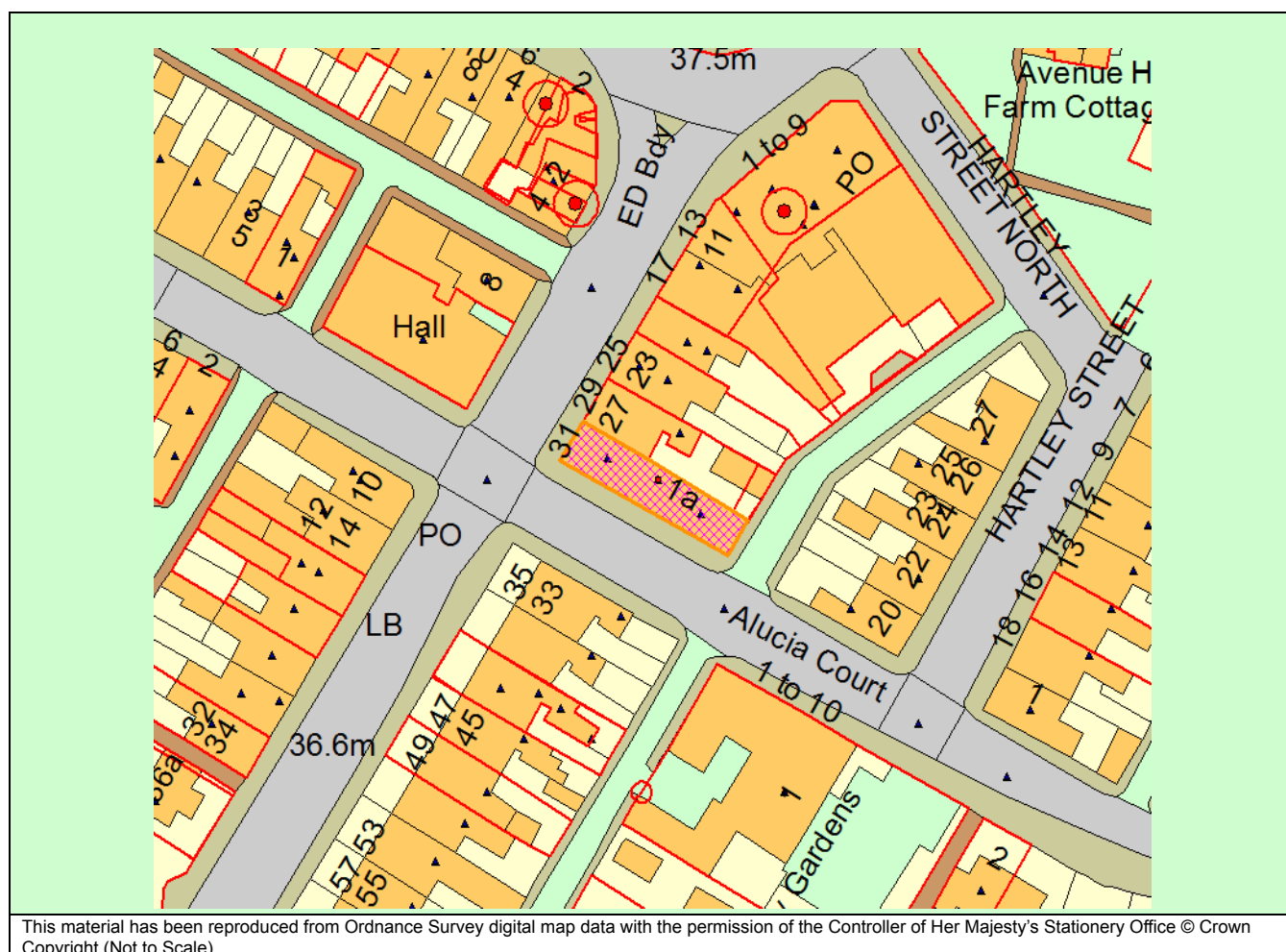
# NORTHUMBERLAND

Northumberland County Council

## Cramlington, Bedlington and Seaton Valley Local Area Council Planning Committee

18<sup>th</sup> October 2017

<b>Application No:</b>	17/01721/COU		
<b>Proposal:</b>	Resubmission: Change of use from Class A1 (Retail) to Class A5 (Hot Food Takeaway) - including installation of extraction and ventilation equipment		
<b>Site Address</b>	Unit 1, 31 Avenue Road, Seaton Delaval, Whitley Bay Northumberland NE25 0DT		
<b>Applicant:</b>	Mr John Kerry Hillwood House, 2 Harvest Drive, Edinburgh, EH28 8QJ	<b>Agent:</b>	Mr Stephen Richardson Sanderson Weatherall, 22-24 Grey Street, Newcastle Upon Tyne, NE1 6AD
<b>Ward</b>	Holywell	<b>Parish</b>	Seaton Valley
<b>Valid Date:</b>	16 May 2017	<b>Expiry Date:</b>	30 August 2017
<b>Case Officer Details:</b>	Name: Mr Malcolm Thompson Job Title: Planning Officer Tel No: 01670 622641 Email: Malcolm.Thompson@northumberland.gov.uk		



## **1. Introduction**

1.1 Under the Council's Scheme of Delegation, where applications raise significant planning issues, they are referred to the Head of Service and Chair of the Local Area Planning Committee for consideration of whether the application should be referred to Planning Committee for determination. This matter was duly considered under these provisions and it was confirmed that the matters should be considered by Planning Committee.

## **2. Description of the Proposals**

2.1 The application site is located within the centre of Seaton Delaval at the intersection of the A190 Avenue Road and Park Road. The building is of two storey brick built design with an existing retail frontage and white rendered ground floor side appearance. The ground floor of the building has previously served as a retail store but is currently vacant.

2.2 The application is a resubmission of refused planning application 17/00172/FUL and seeks planning permission for:

*'Change of use from Class A1 (retail) to Class A5 (takeaway) including the installation of extraction and ventilation equipment.'*

## **3. Planning History**

**Reference Number:** 11/00981/FUL

**Description:** Internal alterations to existing ground floor shop and change of use from existing first floor A1 shop storage area to residential 2 bedroom flat with new window to side gable elevation

**Status:** PER

**Reference Number:** 11/02459/FUL

**Description:** Alterations relating to planning application 11/00981/FUL. Two external air cooling units to rear of property with new entrance door formed to existing side elevation to provide access for refuse storage.

**Status:** Approved

**Reference Number:** 12/01812/FUL

**Description:** Retrospective - Retention of existing lights to the shop front

**Status:** Approved

**Reference Number:** B/82/C/330

**Description:** Refit to existing supermarket

**Status:** Approved

**Reference Number:** 15/03851/FUL

**Description:** Alterations to shopfront to form one single entrance to Food-store.  
Reduction of existing shop size to create separate food-store, pharmacy and 'shell only' commercial unit.

**Status:** Approved

**Reference Number:** 15/03852/ADE

**Description:** Advertisement Consent - 4 x Externally Illuminated Folded Aluminium Lakes & Dales Co-op and Post Office Fascia signs

**Status:** Approved

**Reference Number:** 17/00172/FUL

**Description:** Change of use from Class A1 (Retail) to Class A5 (Hot Food Takeaway) including the installation of extraction and ventilation equipment as supplemented by email received 09/02/17 and by additional information received 17/02/17

**Status:** Refused

#### 4. Consultee Responses

Seaton Valley Parish Council	<p>Objection –</p> <ul style="list-style-type: none"><li>• The Council continues to object to this application on the following grounds:</li><li>• The number of units used for non-retail use in the Seaton Delaval Service Centre is already high. Agreeing to this Change of Use will only make this problem worse. It should be remembered that the primary role of a service centre is to provide for the local convenience shopping needs of residents.</li><li>• The unit adjoins a residential area and has a flat above it. The Council believes the proposed Change of Use would add considerably to the already horrendous parking issues that exist in this area of the service centre,</li><li>• It still feels that the smells, waste, noise and litter that would be generated from such an outlet would have an adverse impact on the amenity of adjoining residential area, particularly late at night; and</li><li>• It is also still concerned about the effect the proposed extraction method and equipment would have on neighbours, particularly the flat above the premises in terms of both smell and noise pollution.</li></ul>
Highways	No objection – informative attached.
Public Protection	<p>No objection – conditions and informatives attached;</p> <p>This application seeks permission to change the use of an existing retail premises to a hot food takeaway. The proposed opening hours for the premises are;</p> <p>Sunday – Thursday 16:00 – 23:00 Friday – Saturday 16:00 – 23:30</p>

	<p>This department has concerns regarding disturbance to local residents from those using the premises during the later opening hours. After reviewing the opening hours of the nearby takeaway establishments this has shown that the latest opening time of a takeaway establishment is that of Chuen Lee Chinese Takeaway, 10 - 12 Astley Road which is open until 23:30 Friday and Saturday and 23:00 Sunday to Thursday, according to our records.</p> <p>Therefore Public Health Protection recommend that the opening hours for the premises are restricted to reflect those of the nearby catering premises and therefore minimising the late night disturbance to local residents.</p>
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## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	25
Number of Objections	18
Number of Support	0
Number of General Comments	0

### Notices

General site notice, 24th May 2017

No Press Notice Required.

### Summary of Responses:

18 public objections; issues raised included -

- Proliferation of takeaways in Seaton Delaval;
- Increased traffic;
- Parking;
- Late night opening;
- Noise;
- Odour;
- Litter;
- Property values;
- Sewage.

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=OPZIBVQSGWW00>

## 6. Planning Policy

### 6.1 Development Plan Policy

#### Blyth Valley District Local Plan 1999

C14 - Shopping: Main Centres

C22 - Food and Drink establishments

M8 - Car Parking

SD2 – Avenue Head Local Service Area

## Blyth Valley Development Control Policies DPD (2007)

DC1 General Development  
DC11 Planning for Sustainable Travel  
DC21 Pollution Control  
DC22 Noise Pollution

## Blyth Valley Core Strategy (2007)

SS1 Regeneration and Spatial Strategy  
SS3 Sustainability Criteria

## 6.2 National Planning Policy

National Planning Policy Framework (2012)  
National Planning Policy Guidance (updated 2014)

## **7. Appraisal**

7.1 The NPPF operates under a presumption in favour of sustainable development. It states that development proposals, which accord with the development plan, should be approved without delay. The adopted Development Plan for the area within which the application site is located, comprises the saved policies of the Blyth Valley District Local Plan, adopted in 1999.

The main issues in the consideration of this application are;

- Principle of Development
- Public Protection (Noise and Odour)
- Highway Safety
- Objection issues

### Principle of Development

7.2 The application proposes to change the use of the existing retail unit at 31 Avenue Road from A1 (Retail) to A5 (Hot food takeaway), incorporating extraction and ventilation equipment to deal with the extra odour requirements associated with a takeaway. The application site is located within the centre of Seaton Delaval, which contains a mixture of use classes. As such, the proposed use would be compatible with its surroundings and would re-use an existing unit.

7.3 Unit 31 is located within the designated Retail Frontage of the Seaton Delaval Local Service Centre as per Policy SD2 of the Blyth Valley Local Plan. Section C of this Policy states;

*Planning permission for change of use from Class A1 (Retail) to Class A2, Class A3 or other non-residential use will normally be refused if it leads to the total frontage in uses that are neither residential or Class A1 exceeding 50% of the total non-residential frontage.*

The Blyth Valley Local Plan is somewhat outdated, however, Paragraph 215 of the NPPF, states that the amount of weight to be given to saved policies should be judged according to the consistency with the NPPF;

*‘...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).’*

Upon further examination, there is alignment with Policy SD2 of the BVLP and Paragraph 23 of the NPPF with regards to the following;

*‘...define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;’*

7.4 Due to this accordance with the NPPF, Policy SD2 was given due consideration in this application. After a short site survey it was calculated that of the 32 non-residential units within the Retail Frontage area defined in the BLP Proposals Map, 15 are currently non A1 use. The conversion of this unit to a A5 use would amount to 16 of the 32 units being non A1, which would be exactly 50% but would not exceed this figure. The proposal is therefore in accordance with this policy.

7.5 19no public objections were received which made reference to the proliferation of takeaways within the town, and that the application should be refused on this basis. However, there are no policy implications pertaining to takeaways exclusively, with the only reference to this being the aforementioned Policy SD2, of which the application is not in contravention. Therefore, the principle of development is acceptable and in accordance with policies DC1 of the Blyth Valley Development Control Policies DPD, SS3 of the Blyth Valley Core Strategy, Policy SD2 of the Blyth Valley Local Plan and the NPPF.

#### Public Protection (Noise and Odour)

7.6 Policy DC21 of the BVDCP states that development should not contribute to increased pollution in the area, whether on developed land or new land uses;

*‘The Local Planning Authority will seek to minimise the impact of pollution on the environment, including existing land uses, and on proposed development and will support and encourage measures to reduce existing pollution to the lowest practicable levels and where possible, improve air, soil and water quality.*

*Planning permission will not be granted for development liable to generate levels of pollution considered to cause significant harm to:*

*...C) the existing air, soil or water quality.’*

Policy DC22 of the BVDCP forwards;

*‘The Local Planning Authority will seek to ensure that, wherever practicable, noise sensitive development and noisy or potentially noisy developments are located away from one another and will impose relevant conditions or seek appropriate planning obligations in relation to new development where separation is not practicable.’*

7.7 Furthermore, the NPPF states the following in regard to odour and noise pollution;

*'The planning system should contribute to and enhance the natural and local environment by*

*...preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability...'*

7.8 Upon receipt of the application, and in accordance with normal practice, the Council's Public Protection Officer was formally consulted. The previous application (17/00172/FUL) was refused permission primarily due to the fact that no supporting information pertaining to noise and odour was submitted. The resubmission provided these documents and after consideration, the Public Protection officer is in agreement with the proposal to change the use of the retail unit to a hot foot takeaway, with conditions and informatives attached to any grant of permission. The application is therefore in accordance with Policy DC1 of the Blyth Valley Development Control Policies DPD and the NPPF.

#### Highway Safety

7.9 In line with the National Planning Policy Framework, highway authorities are now asked to consider whether new developments have an impact on the road network and parking provision, taking account of mitigation measures, before considering recommending refusal to the Local Planning Authority.

7.10 In response to formal consultation, the Highways Officer has commented that the proposed development is not considered to have a harmful impact on the highway. There are existing pedestrian and transport links in place. The proposal of a change of use class to A5 (Hot food Take-away) within this service centre is not considered to create any more vehicular traffic than its previous use of A1 (Retail). It has also been offered that whilst the applicant has not submitted any details of car parking with this application, it is noted that the site is located within the service centre and there is on street parking available, similar to other neighbouring businesses that operate with the use of on street parking. The previous A1 use of the premises operated in this way without any issues having been reported. Nevertheless, and in the event that planning permission is granted, the Highways Officer requests that a condition be imposed requiring the prior submission and approval of details in respect of proposed refuse storage facilities. Given the above, it is not considered that the proposal would adversely impact on highway safety in accordance with the NPPF.

#### Other Issues

7.11 Notwithstanding the issues raised in the appraisal above, further reference was made by public objectors and the Parish Council to the following issues;

- Late night opening;
- Property values/insurance;

- Sewage.

7.12 With regards to the risk of late night opening, a condition has been attached to this report limiting the takeaway to opening hours in line with similar businesses in the area to avoid any disturbance caused by customers using the facilities late at night. This is considered sufficient to address these concerns in amenity terms and in line with Public Protection recommendations. Furthermore, property values/insurance premiums are not valid planning considerations and as such were not considered within the scope of this application. Mention was made of sewage within several objections but no details of these concerns were included. There is not considered to be any issues with sewage as a result of the inclusion of a takeaway in this location and this was not considered within the assessment of this planning application.

## **8. Conclusion**

8.1 It is considered that, subject to conditions, the proposal would not be detrimental to the character of the surrounding area or have a significant detrimental impact on the amenity of nearby residents and businesses, nor would it would not have an adverse impact on the public highway. It is considered that the proposal represents an appropriate form of development which accords with local and national planning policy and to therefore withhold planning permission would be unreasonable.

## **9. Recommendation**

That this application be GRANTED permission subject to the following:

### Conditions/Reason

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended)

02. Approved Plans

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans. The approved plans for this development are:-

1. Location, floor and elevations combination plan; Drawing ref: 300.01 Rev01
2. Proposed site plan; Drawing ref: 150-02 Rev01

Reason: To ensure that the approved development is carried out in complete accordance with the approved plans and complies with the National Planning Policy Framework.

03. Materials

The facing materials and finishes to be used in the construction of the development shall be in accordance with details contained in the application. The development shall not be constructed other than with these approved materials.

Reason: In the interests of the satisfactory appearance of the development upon completion and in accordance with the provisions of Policy DC1 of the Blyth Valley DPD.

#### 04. Odour

Prior to the installation of the extraction system, or the system being brought into use the applicant shall provide full details of the odour treatment system to be installed into the development which shall provide a High level of odour control, as defined in the DEFRA document "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems". The details shall be submitted to the LPA for its written approval with the approved scheme implemented in full.

Reason: To ensure a commensurate level of protection against odour

#### 05. Noise Levels

The noise rating level from the extraction system shall not exceed 39 dB(A), as identified in the Noise Impact Assessment, Produced by: Apex Acoustics, Dated: 11th May 2017, Revision B, at the nearest noise sensitive properties in lawful existence at the time of this planning permission.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

#### 06. Background Noise Control from Fixed Plant Validation

During commissioning testing and before the scheme is brought into use, or continues in use, the Operator shall, employ a competent acoustic consultant to assess the level of noise emissions from the development at the nearest noise sensitive properties.

The assessment shall be undertaken in accordance with the methodology described in BS 4142:2014. The Operator shall submit a validation report based on the consultant's findings to the Local Planning Authority for written approval.

Where the noise levels from the development exceeds the levels stated in condition 2 at the nearest noise sensitive premises, appropriate mitigation measures shall agreed and implemented in full within a timescale approved in writing by the Local Planning Authority.

*\*T shall be assessed as one hour during daytime (0700 - 2300) and five minutes at night time (2300 - 0700).*

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission 2017/02/24

GV1/PL3 and/or unacceptable disturbance, as there is insufficient information within the submitted application.

07. Opening Hours

The premises shall not operate outside the hours of;

- Sunday to Thursday - 1600 to 2300
- Friday & Saturday 1600 to 2330.

Reason: To protect the amenity of local residents

**Date of Report:** 28.09.2017

**Background Papers:** Planning application file(s) 17/01721/COU, 17/00172/FUL