
APPLICATION DETAILS

Application No:	18/0380/COU
Location:	38 Stokesley Road Marton Middlesbrough TS7 8DX
Proposal:	Change of use from Bank (A2) to Bar with ancillary food service (AA) and retrospective single storey rear extension and new shop front
Applicant: Company Name:	Mr Anthony & Andrew Hynes
Agent: Company Name:	Mr Fahim Farooqui MSc MRTPI Total Planning Solutions (UK) LTD
Ward:	Marton East
Recommendation:	Approve with Conditions

SUMMARY

Planning permission is sought for the change of use of 38 Stokesley Road from a bank (A2) to a bar with ancillary food service (Use Class AA) and also seeks retrospective permission for a single storey extension at the rear and new shop front.

Following a consultation exercise objections have been received from residents from 10 properties. Objections primarily relate to the opening hours, noise, anti-social behaviour, parking, use of the footpath outside the premises and the appropriateness of the use in a residential area.

The proposal has been considered against national and local policy and guidance, it is considered that the proposed drinking establishment will not have a significant impact on the amenity of nearby residents, character of the area or matters of highway safety. It is also considered that the proposed use as a bar with ancillary food service is appropriate in this Local Centre location and will not undermine the vitality and viability of the centre, being in accordance with relevant national and local policy on these matters. The recommendation is for approval of the application subject to conditions.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is a mid-terrace property located in the Marton Road/Gypsy Lane Local Centre on the east side of Stokesley Road. To the rear of the site is a secure service lane which serves the Local Centre, followed by the rear gardens of residential dwellings on

Gypsy Lane. To the north and south are premises within the Local Centre, to the west is the parking area associated with the shops followed by residential dwellings on the other side of Stokesley Road. The first floor of the premises is in office use.

Permission is sought for the change of use of the ground floor to a bar (A4), with retrospective alterations to the front elevation to provide a new frontage including the installation of bi-folding doors, and a single storey extension at the rear

PLANNING HISTORY

No relevant planning history

PLANNING POLICY

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- a) *The provisions of the development plan, so far as material to the application*
- b) *Any local finance considerations, so far as material to the application and*
- c) *Any other material considerations.*

The following documents together comprise the Development Plan for Middlesbrough;

Middlesbrough Local Plan;

- *Housing Local Plan (2014)*
- *Core Strategy DPD (2008, policies which have not been superseded/deleted only)*
- *Regeneration DPD (2009, policies which have not been superseded/deleted only)*
- *Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)*
- *Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)*
- *Middlesbrough Local Plan (1999, Saved Policies only) and*
- *Marion West Neighbourhood Plan (2016, applicable in Marion West Ward only).*

The overarching principle of the National Planning Policy Framework (NPPF) is to support sustainable development, and that it should go ahead without delay. It defines the role of planning in achieving economically, socially and environmentally sustainable development and recognises that each are mutually dependent. The NPPF requires local planning authorities to approach development management decisions positively, utilising twelve core planning principles, which can be summarised as follows:

- *Being plan led*
- *Enhancing and improving areas*
- *Proactively drive and support sustainable economic development to deliver homes, business, industry and infrastructure and a thriving local economy*

- *Always seek a high quality of design and good standard of amenity for existing and future occupants*
- *Take account the different roles of areas, promoting the vitality of the main urban areas whilst recognising the intrinsic character of the countryside*
- *Support the transition to a low carbon future, taking full account of flood risk, resources and renewables*
- *Contribute to conserving and enhancing the natural environment*
- *Encourage the effective use of land*
- *Promote mixed use developments*
- *Conserve heritage assets in a manner appropriate to their significance*
- *Actively manage patterns of growth making fullest use public transport, walking and cycling and focus significant development in sustainable locations and*
- *Take account of local strategies to support health, social and cultural well-being and deliver community and cultural facilities to meet local needs.*

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

DC1 - General Development
 CS4 - Sustainable Development
 CS5 - Design
 CS13 - Town Centres etc Strategy
 REG29 - Local Centres
 UDSPD - Urban Design SPD

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

CONSULTATION AND PUBLICITY RESPONSES

Following a consultation exercise objections have been received from residents of 10 properties, these are summarised below:

- a) Enough licensed premises in the area;
- b) Will occupy footpath, undesirable walkthrough for children near school;
- c) Health and safety;
- d) Anti-social behaviour;
- e) Smoking outside;
- f) Close to adjoining properties;
- g) Litter;
- h) Increase pollution;
- i) Loss of privacy;
- j) Restriction of access to service vehicles at rear due to extension, impact on visibility, there have been accidents in the past;
- k) Existing noise issues with rear yard with lorry offloading/extractor fans;
- l) Noise from people leaving late at night, cars and music;
- m) late opening after 11pm - licensing application states 1am and 3am;
- n) Reasons given for lack of interest in premises are not accurate;
- o) Comments relating to the estate agent;
- p) Preferable to have a dead frontage than a bar;
- q) Works have started;
- r) Bin store/cellar too small, bins will be stored in service lane;
- s) Residential area, bar is not appropriate use;
- t) Bi-fold doors will result in noise issues;

- u) Car park restricted to 2 hours, therefore people will park in residential area, already an existing issue; and,
- v) Premises are too small.

Comments received from:

1. 2 The Croft;
2. 1 Gypsy Lane;
3. 3 Gypsy Lane;
4. 13 Gypsy Lane;
5. 47 Stokesley Road;
6. 61 Stokesley Road;
7. 12 Dixons Bank;
8. 11 The Croft;
9. 13 The Croft; and,
10. 3 The Croft.

MBC - Planning Policy

No objections

The application is located within a local centre, the change of use of a non-retail unit (a2) to another non-retail unit (AA) will not harm the vitality and viability of the local centre. The application is in accordance with relevant local and national planning policies.

MBC - Environmental Protection

No objections have been raised subject to relevant conditions should the application be approved.

MBC - Waste

Having assessed the application no comments have been made.

MBC - Highways

No objections.

The proposals will not lead to a material change in traffic generation or demand for parking over that which could be generated by the current consented use. The unit is in a sustainable location that is easily accessible by non-car travel.

Marton East Community Council

We already have a licenced property at Marton shops along with a licenced restaurant and two supermarkets selling alcohol and three public houses not far away. I am sure the residents of Marton do not want another bar at Marton shops as we are sure one is enough.

The police are already aware of an increase in anti-social behaviour at the shops and this would only make matters worse.

Ward Councillors

We are objecting to this licensing of this property we have already at the shops have a licenced property along with two off licences properties and a licenced restaurant there is no need for any more. The shops have a big problem with anti-social behaviour. I am sure the police are aware of this. We already have in the area three public houses and there is no need of any more. The residents do not want another licenced bar at the shops one is enough.

We must object to the door come window these are sliding window come door. Therefore this can be opened and people can stand with drink etc on the shop footpath leading to the shops. Lots of young people hang around at the shops and this type of door come window is unacceptable. Also shoppers would not be able to use the path drinkers could cause an obstruction.

Public Responses

Number of original neighbour consultations	45
Total numbers of comments received	10
Total number of objections	10
Total number of support	0
Total number of representations	0

PLANNING CONSIDERATION AND ASSESSMENT

1. The principle issues to be considered in respect of this application centre upon the principle of the use in the proposed location, the impact on the vitality and viability of the local centre and the impact on the amenity of nearby residents.
2. During the application process works have commenced on site. Internal works do not require planning permission and the use has not commenced. The single storey rear extension at the rear is completed on site and works have commenced on the new shop front. As a result these elements need to be considered retrospectively. Planning legislation allows for retrospective consent, all works are undertaken at the applicants risk, as a result the fact that work has commenced on site is not a material planning consideration and has no bearing on the consideration of material planning considerations relating to the application.
3. Other comments which are not material planning considerations and cannot be considered during the analysis of this application, and which have been made within comments received, include the proposed hours of opening on the licensing application (however it is noted that the licensing application has been amended to conform with the planning application), comments relating to the estate agent, or the lack of interest in the site and anti-social behaviour.

Policy

4. The application site is located within an area defined in Policy CS13 of the Middlesbrough Core Strategy (2008) as Marton Road/Gypsy Lane Local Centre, and identified on the Housing Local Plan Proposals Map (2014). Although the application is for a town centre use, it is located within an allocated Local Centre, as a result a sequential test is not required in accordance with the NPPF.
5. In seeking to maintain and enhance the vitality and viability of the local centre it is important to ensure that the ratio of retail to non-retail units is such that the retail function of the area is not undermined. There are a total of 28 units in the centre, based on a survey carried out in March 2018 the ratio of retail to non-retail uses is 14 retail and 14 non-retail with two of these currently vacant. Whilst the ratio of retail units is low, of the non-retail uses nine of them are uses that encourage footfall during the day in the same way retail uses do, thereby supporting the vitality and viability of the centre.
6. The site currently has consent for an A2 use and this proposed change of use to a drinking establishment will not therefore result in the loss of a retail unit. The proposals are for a small scale drinking establishment with ancillary food service that will provide a local leisure facility within the local centre. It is considered that use will not undermine the retail function of the area.

7. Provision of facilities such as that proposed can enhance the offer available within the centre complementing and supporting its retail function but the level of provision needs to be carefully balanced. There is a café/bar near to the application site in the local centre and a restaurant, these venues are predominantly food based with ancillary alcohol sales, in contrast to the application which is primarily a drinking establishment with ancillary food service. As a result it is considered that the proposed use will not result in an excess of similar uses within the local centre.
8. The Rudds is located approximately 600m to the northeast of the application site and the Southern Cross is approximately 470m to the south, these venues are much larger public houses than the application site. Given the small scale of the application site and the large separation distances to other drinking establishments it is considered that the proposed use would not result in an excessive provision of drinking establishments in the area.
9. It is considered that the proposed use will not detract from the vitality and viability of the local centre, with the revival of a currently vacant unit contributing to the vitality of the local centre without any detrimental impact on its character. The proposal is in line with policies CS13 and REG29 which allows for other complimentary uses. The proposed development will result in the loss of a complimentary non-retail use (A2) and its replacement with another complimentary non-retail use (AA).
10. The application is in harmony within National Policy, helping to promote a competitive centre that promotes customer. In addition, by reactivating a vacant unit, it is proactive planning to encourage economic activity and prevent decline in accordance with paragraphs 14 and 23 of the NPPF.

Amenity

11. A number of the comments received relate to the impact on the amenities of local residents in relation to noise and disturbance and anti-social behaviour associated with patrons of drinking establishments.
12. The closest residential dwellings at the front of the site are on the opposite side of Stokesley Road at a distance of 53m, they are separated from the application site by the car park at the front of the shops and Stokesley Road. There is potential for occupants of these properties to be affected by noise from customers arriving and leaving the site by car or foot. However due to the large separation distance to residential dwellings and the small size of the establishment proposed, which will naturally limit the number of patrons, it is considered that the impact would not be significant.
13. The rear of the premises is located 23m from the rear elevation of the closest residential dwelling to the rear. The rear of the site is located within a secure service lane which will not be available for use by patrons of the premises. To ensure business activities such as deliveries and waste collection at the rear do not have a significant impact on the amenities of the residents to the rear, conditions will be required to control the hours for deliveries and collections. It is also considered necessary to restrict the external movement of bottles and glass late into the evening and on Sundays and Bank Holidays by condition.
14. The application proposes opening hours between 9am and 11pm seven days a week. Given its location in the local centre, the small size of the unit and there are no adjoining residential premises, it is considered that opening to 11pm will not result in significant noise and disturbance to residents. Concerns have been raised regarding noise from inside the venue as a result of the proposed bi-folding doors at the front being left open. Licensing legislation controls the playing of music and other

entertainment in the venue, as part of the licensing process Environmental Protection require a condition restricting the opening of doors and windows when music is playing. To ensure no music is played outside the venue a condition will be placed on this application preventing the installation of external amplification systems.

15. Comments have been received with regards to overspill onto the footpath to the front of the shop and smoking to the detriment of the health and safety of other users of the footpath. Whilst it would be preferable that a separate outdoor smoking area be provided there is no space within the premises to achieve this. Given the small size of the establishment it is unlikely that a significant number of customers would assemble on the footway for this purpose, further to which, the premises is in the Local Centre where pedestrian movement / presence is integral to the function of the centre and users of the existing café/bar can already have a similar affect. In view of these points, whilst an in-curtilage smoking area would be ideal, it is considered that it would be unreasonable to justify a refusal of planning permission on loss of amenity or impact on health and safety grounds.
16. The application has been considered by Environmental Protection in relation to noise from the venue and the associated ventilation and extraction system who have raised no objections subject to conditions relating to control of opening hours and deliveries and collections as detailed above, and a condition to approve details of the ventilation system.
17. The application is considered to be in accordance with the requirements of policy DC1.

Design / Streetscene

18. The single storey extension to the rear is small in scale and is not visible from the streetscene. It is located in a rear service lane and has been designed to be unobtrusive and discreet. The proposed frontage consists of the retention of the fascia board and the replacement of large window and single door with bi-folding doors which allow for one door or the entire frontage to be open. The proposed doors are modern in design and provide an active frontage which is in line with urban design principles. The front elevation is considered to be in keeping with the retail character of the area and will not detract from the visual amenity of the streetscene in accordance with the requirements of policy CS5 and the Urban Design SPD.

Highways / Sustainability

19. The application has been considered by the Local Highway Authority who have confirmed that the proposal will not lead to a material change in traffic generation or demand for parking over that which could be generated by the current A2 use. Being located within a well-used local centre the site is in a sustainable location and is easily accessible by non-car travel.
20. Concerns have been raised about the restriction of parking in the adjacent car park to 2 hours with residents concerned that patrons will wish to stay in the venue longer and will therefore park in the adjacent residential streets. As stated the site is in a sustainable location it is likely the venue will cater for local residents rather than people travelling to the site, it could also be argued that users of the site are more likely to arrive on foot thereby reducing the demand for parking and therefore not exacerbate any existing parking issues in the area. The adjacent residential roads have double yellow lines to prevent parking associated with the local centre and nearby school. Contravention of parking restrictions is dealt with under other legislation and therefore has no bearing on the outcome of this application given that no additional floor space is being created.

21. The single storey extension at the rear is located outside the service lane, which is a one way system and leaves ample space for vehicles, to pass. The Local Highway Authority have not raised any objections in relation to access or safety as a result of the extension.
22. It is considered that the development will not have a detrimental impact on the local highway network in terms of capacity and safety in accordance with the requirements of policy DC1.

Conclusion

23. The proposal is an appropriate use within a designated local centre, it will not unduly affect the vitality and viability of the local centre or its function in accordance with the NPPF and local policies CS13 and REG29. It is considered that the site is in a sustainable location and the use as a bar with ancillary food service and the associated extensions and alterations to the building will not have a significant detrimental impact on the amenity of local residents, the character and appearance of the area, or the capacity and safety of the local highway network in accordance with the requirements of policies DC1, CS4, CS5 and the Urban Design SPD.

RECOMMENDATIONS AND CONDITIONS

Approve with Conditions

1. Time Limit
The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Approved Plans
The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:
 - a) Full Plans, drawing no. 001; and,
 - b) Planning Design and Access Statement (Revised), dated 15th July 2018.

Reason: To ensure a satisfactory form of development and for the avoidance of doubt.

3. Hours of Operation
Hours of opening of the drinking establishment hereby approved shall be restricted to be between the hours 8am to 11pm Monday to Sunday.

Deliveries and collections to the rear of the premises including waste collection must be restricted to between the hours of 8am and 7pm Monday to Saturday and between the hours of 9:30am and 6:30pm Sundays and Bank Holidays.

Refuse, such as bottles, shall only be disposed of from the premises between the hours of 8am to 8pm Monday to Saturday, and 10am to 8pm Sunday and Bank holidays.

Reason: In the interests of amenity of residents.

4. External Amplification Systems
No tannoy, address system or amplified music system shall be installed on the external area of the building.

Reason: To ensure a satisfactory form of development and in the interests of the amenities of residents.

5. Ventilation and Fume Extraction System
Details of a ventilation and fume extraction system suitable for uses within class A3 and A4, including a full technical specification by a suitably qualified technical professional person, specifying the position of ventilation fume or flue outlet points and the type of filtration or other fume treatment to be installed and used at the premises in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority and shall be installed before the development hereby permitted commences, and thereafter shall be retained in full accordance with the approved details. The ventilation and extraction system referred to in this condition shall be operated and maintained in accordance with the manufacturers recommendations including the frequency of replacement filters.

Reason: To ensure a satisfactory form of development and in the interests of the amenities of residents.

REASON FOR APPROVAL

This application is satisfactory in that the use as drinking establishment (A4) with ancillary food service, and the retrospective single storey rear extension and new shop front accords with the principles of the National Planning Policy Framework (NPPF) and the local policy requirements (Policy CS13, REG29, DC1, CS4, and CS5 of the Council's Local Development Framework).

In particular, the use as drinking establishment (A4) with ancillary food service, and the retrospective single storey rear extension and new shop will not prejudice the character and function of the area and does not significantly affect any landscaping or prevent adequate and safe access to the site. The use as drinking establishment (A4) with ancillary food service, and the retrospective single storey rear extension and new shop will be consistent with the commercial uses of this location and will not be detrimental to any adjoining or surrounding properties. The traffic generated, car parking and noise associated with the drinking establishment (A4) with ancillary food service use will not be of a level likely to result in an unacceptable impact on nearby premises.

The application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations, which would indicate that the development should be refused

INFORMATIVES

The applicant is reminded that building materials shall not be deposited on the highway without the specific consent of the Highway Authority.

It should be ensured that, during construction, deliveries to the site do not obstruct the highway. If deliveries are to be made which may cause an obstruction then early discussion should be had with the Highway Authority on the timing of these deliveries and measures that may be required so as to mitigate the effect of the obstruction to the general public

Case Officer: Shelly Pearman

Committee Date: 27th July 2018

