
APPLICATION DETAILS

Application No:	22/0420/COU
Location:	Units 1B and 2 Marton Estate Square, Stokesley Road, Marton, Middlesbrough
Proposal:	Change of use from betting shop and post office (sui generis) and E(a) use classes) to restaurant (E(b) use class)
Agent:	SJD Architecture
Ward:	Marton East
Recommendation:	Refuse

SUMMARY

Planning permission is sought for the change of use of Units 1B and 2, Marton Estate Square, Stokesley Road from their current betting shop (sui generis) and post office (E(c)) uses to a restaurant (E(b)).

Following a consultation exercise, objections have been received that primarily relate to traffic matters and the existing high levels of car parking at the local centre. Additional concerns raised by objectors include the existing number of units trading hot food within the parade and the affect this will have on the amenities of the area.

The original Marton Estate Square development was granted planning permission in 2004 with a range of commercial and retail uses and associated area of car parking, all of which remain today. The current application seeks to re-occupy empty floorspace with a restaurant use.

Whilst the proposed restaurant is deemed to be an appropriate use in this Local Centre location and will not undermine the vitality and viability of the centre, the associated car parking for a restaurant use cannot be accommodated within the existing Local Centre and would have the unacceptable consequence of overspill customer and staff parking into the surrounding residential estates.

Given the above, and the reasons outlined in the detailed report, it is the officer recommendation to refuse the application.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is situated at the northern end of the Marton Road/Gypsy Lane Local Centre, more commonly referred to as Marton Shops. The main parade of shop units

(between Gypsy Lane and Laurel Road) was constructed at a similar time to the surrounding housing estates to provide the nearby residents with services and shops to fulfil daily needs.

The later expansion to the local centre, within Marton Estate Square, which is to the north of Laurel Road, was constructed approximately 20 years ago. The Marton Estate Square development added circa 1250 square metres of floorspace to the local centre and 25 parking spaces.

The two units that form part of the application are at ground floor level within Marton Estate Square and were previously in use as a betting shop and a Post Office (the betting shop ceased trading, whilst the Post Office downsized into the nearby Spar unit). The proposed restaurant would occupy the 207 square metres of floorspace vacated by these former uses.

No changes are proposed to the external elevations, with the minor exception of a new door on the rear elevation.

PLANNING HISTORY

M/FP/0802/03/P

Proposed commercial development comprising class A1 retail with class A2/B1 over
Refused 23rd July 2003

Allowed on Appeal on 20th April 2004

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 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:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- 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

- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).

National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

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

CS4 – Sustainable Development
CS5 – Design
CS13 – Town Centres etc Strategy
REG29 – Local Centres
DC1 – General Development

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

The application has been the subject of the standard notification of neighbouring properties by letter drop, which includes 11 different addresses. Following the consultation period, four

objections were received – two from local ward Councillors Davison and Mawston, one from Marton Community Council, and one from Councillor Chris Hobson from the adjoining ward of Marton West.

Councillors Davison and Mawston submitted separate objections with similar content that can be summarised as follows.

- a) Existing traffic problems with the entrance to Marton Estate Square and exit to the main parade of shops being close to one another as well as a pedestrian crossing point.
- b) The site is only a few metres from the busy junction of Laurel Road and Stokesley Road (a road with about 25,000 vehicles a day usage).
- c) The car park associated with Marton Estate Square is already very busy, which provide many important services to our elderly community.
- d) There is not enough parking at the car parks with staff already parking on nearby streets, which is unpleasant for residents.
- e) More problems exist with cars parked at the Shops for dropping off and picking up of children at the nearby school.
- f) There are double yellow lines along Laurel Road which cause extra parking on The Willows.
- g) There are already seven takeaways and three restaurants in the Shops. An extra restaurant will have a detrimental effect on the area.

Neighbouring ward councillor Chris Hobson objects on the following grounds.

- a) The shopping parade is full of takeaways now we really do not want any more.
- b) There are more than enough eating places along this parade of shops. We certainly do not want anymore.

Marton Community Council objects on the following grounds.

- a) There are already five takeaways and three restaurants within Marton Shops.
- b) These shops are all situated on a very busy road.
- c) There is not enough parking as the car parks are not big enough. Staff of these establishments park on The Willows, Laurel Road and Gypsy Lane.
- d) Where the restaurant would be, the car park is required for essential services. There is a huge elderly community and these services are essential and we feel another café/restaurant in this area would cause parking problems for elderly residents.

Responses from Internal Technical Consultees

MBC Planning Policy

The proposed change of use to restaurant is in accordance with Policies CS4, CS13 and REG29, it is readily accessible by various modes of sustainable transport and as a town centre use it is considered complementary within the Marton Road/Gypsy Lane local centre. Furthermore, the re-use of a vacant unit will contribute to the vitality and viability of the overall centre. No objections to the principle of the proposed use at this site.

MBC Environmental Health

There are no objections subject to four conditions relating to noise mitigation, restrictions on deliveries and collections, restricting the hours of waste collection, and undertaking an odour impact assessment, should the application be approved.

MBC Waste Policy

No objections to the waste storage arrangements.

MBC Highway Planning

When considering the potential impact of the proposals, an assessment is made of proposals against the lawful fallback position. Using class A1 in the TVDG the 207sqm floorspace of empty units would require 7 spaces and 2 cycle spaces.

There are two methods to calculate the parking requirements for the proposed restaurant using the TVDG. The first is 1 vehicle per 2 seats (requires 21 vehicle spaces); the second is 1 vehicle space per 5sqm of internal public space (using 156sqm from the submitted drawing plan this would require 31 vehicle spaces and 15 cycle spaces) for this use. Whilst not a new development, the TVDG provides a good indication of the anticipated demand.

The number of spaces within the Marton Estate Square car park associated with these units is 25 spaces. The car park also accommodates vehicles for the existing units which would also be open during part of the proposed opening times for the restaurant being considered (7 days per week 12:00-22:00).

No servicing yard is available, so servicing of these units occurs within the car park area. The car park has private parking management restrictions which control the duration of stay and limits use of the area to customers.

The proposals would lead to an increase in required car parking between 14 and 24 car spaces. In the best-case scenario, the development proposals would require just under 50% of the available parking stock on its own.

Whilst the applicant has stated that much of the custom would be by non-car modes, officers consider that this cannot be substantiated or controlled through the granting of planning consent. It is the view of officers that it is more likely that the existing uses will attract higher levels of custom by foot/cycle as they are local facilities serving adjacent the adjacent residential areas. The proposed restaurant use would create a greater potential catchment area and draw people in from distances where car use is more likely to be the primary mode of travel, particularly later into the evening.

Car parking associated with the current use is more likely to be short stay and high turnover in nature, whereas a restaurant use will result in a longer stay and thus lower turnover of spaces. This will lead to less flexibility in the use of the parking as parking spaces are occupied for longer periods of time and thus not available for other units or their customers.

The level of staffing for the proposed restaurant is expected to be much greater than the current uses. Due to the car parking restrictions, staff would not be able to park within the car park and as such would park elsewhere, with adjacent public highway being the most likely location.

There is high demand on the existing parking spaces and complaints are received regularly from residents and elected Members about parking issues in the nearby residential streets and the need to enforce. Issues include vehicles regularly being parked obstructing footpaths, dropped kerb accesses to drives and in contravention of waiting restrictions. This has been exacerbated after time restrictions were introduced within the car park. It is understood staff now park in residential streets. Complaints are also received regarding loading/unloading being carried out from the highway again blocking accesses and causing congestion on Laurel Road. Complaints have also been received from residents on The Willows. Existing restrictions were renewed and additional advisory markings were installed to try to alleviate some of the parking issues associated with business. However, residents were hoping for resident parking restrictions to be introduced and such requests have continued. The enforcement requests as a result of parking associated with businesses places additional demand on the Authority's enforcement resources.

Officers have requested a parking beat survey, which would demonstrate whether parking capacity exists to serve the proposed development or what the shortfall is and the duration of time that it occurs for. The applicant has failed to demonstrate that sufficient parking stock is available to serve the proposed development. Development proposals are located within a local centre that is under high demand for parking, which is demonstrated by a frequent number of complaints from elected members and the public. This high demand in parking is seen in parking being displaced into surrounding residential areas and that which occurs in an indiscriminate manner with parking taking place on footways, over vehicle access points and around junctions. Parking occurs for extended periods of time as some is associated with staff based at the local centre.

As such the Highway Authority recommend refusal of the application on the above grounds.

Public Responses

Number of original neighbour consultations	11
Total numbers of comments received	4
Total number of objections	4
Total number of support	0
Total number of representations	0

PLANNING CONSIDERATION AND ASSESSMENT

Character of the Local Area

1. The local housing estates were predominantly constructed in the 1960s and 1970s and are based on a very conventional housing layout. The majority of houses are constructed in traditional materials, semi-detached in nature with a generous number and diversity of bungalows. The A172 runs north-south through the local area, with a principal focal point of the community being the parade of shops, widely known as Marton Shops, to the east of the main road.

National Guidance

2. The Government's guidance is set out in the National Planning Policy Framework (NPPF), which states that the general principle underlying the town planning system is that it is 'plan led'. Put simply, this means all proposed development that is in accordance with an up-to-date Local Plan should be approved. Proposed development that conflicts should be refused unless other material considerations indicate otherwise.

3. Specific Government guidance for sustainable economic development and building a competitive economy is held within chapter 6 of the NPPF. The chapter outlines the Government's commitment to ensuring that sustainable economic growth is supported by the planning system. It is stated that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. It is the officer view that the occupation of the empty floorspace with the proposed development would improve the offer at the local centre and support economic growth and productivity.

4. Chapter 7 of the NPPF 'Ensuring the vitality of town centres' determines that LPAs should promote competitive town centres, provide customer choice and diverse retail offers; and enhance existing markets ensuring they remain attractive and competitive. Inclusive in this chapter is the requirement to define a network and hierarchy of town centres and promote their long-term vitality and viability, allows a mix of uses (including housing) and reflects their distinctive characters and to recognise that residential development plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites. The development sought here is considered to adhere to this broad statement as it continues an appropriate mix of uses that would allow the centre to sustain a healthy vitality and viability.

Local Policy Context and Appraisal

5. The Local Plan seeks to achieve the same principles as the NPPF. In terms of establishing an order of centres, the Local Plan identifies centres across the town and distinguishes their roles in the form of a hierarchy. The application site lies within a recognised local centre, as defined under Policy CS13 of the Middlesbrough Core Strategy, which states that development proposed within local centres must meet local needs and would be of a scale appropriate to the centre and will not adversely impact upon the vitality and viability of other nearby centres. The Policy states that the above shall be achieved through encouraging retail, commercial, leisure and cultural development within a centre of an appropriate type and scale commensurate with its current and future function, as well as safeguarding the retail character and function of centres by resisting development that detracts from their vitality and viability.

6. Policy REG29 recognises the role of local centres and allows for development of an appropriate scale for the centre that fits in with the surroundings and serves a local catchment area. The Policy also states what uses would be considered acceptable and that, either on their own or cumulatively, these shall not impact upon the vitality or viability of centres. As well as A1 uses being considered acceptable, the Policy states that A2 and A3 uses could also be considered acceptable subject to not detracting from the vitality and viability of the centre, and not detrimentally impacting on the character and amenity of the surrounding area.

7. Since the publication of the Local Plan, the use class order has been amended with uses A1, A2 and A3 being redefined as E(a), E(c) and E(b) respectively. The proposed restaurant would fall within category E(b) and deemed acceptable in principle, subject to

considering the impacts on vitality and viability, as well as the character and amenity of the surrounding area.

8. 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. On a recent survey of the units at Marton Shops, there were determined to be a total of 30 units in the centre.

- 11 retail uses (Use Class E(a), formerly A1),
- 7 offices / restaurants / café's (Use Class E(c) or E(b), formerly A2 and A3),
- 11 sui generis uses (being generally hot food takeaways or beauty salons),
- 1 dentist falling into the E(e) (former D1) use.

9. Whilst the ratio of retail units is considered to be relatively low, of the non-retail uses, many of them are deemed to be uses that encourage footfall during the day in the same way retail uses do, thereby supporting the vitality and viability of the centre. Whilst the proposed restaurant use would remove an E(a) use, it also removes a non-retail use and also introduces one that is deemed to encourage footfall at different times of the day (lunch times and evenings), and therefore supporting the vitality of the local centre.

10. Policy CS4 requires all development to contribute to achieving sustainable development by creating inclusive communities, ensuring everyone has access to facilities that they need in their daily lives, promotion of a healthier and safer community, being located so that services and facilities are accessible on foot or by sustainable transport, making the most efficient use of land with priority given to development on previously developed land, protecting biodiversity assets, and by delivering development of a high quality design that improves the townscape. Being surrounded by housing as well as being alongside the A174, the site is considered to have good links to sustainable transport. In addition, the occupation of vacant units is considered to make the most efficient use of land and in accordance with CS4.

Considerations on Amenity

11. Mindful of the operations associated with a proposed restaurant use, consideration needs to be had to the potential impacts on the residential amenities of nearby occupiers. As the closest residential dwelling to the application site is immediately adjacent – No. 1 Laurel Road – it is important that any noisy operations or those capable of disturbance are minimised.

12. It is noted that a similar use – Jolsha restaurant – occupies the floor above the proposed restaurant and operates without undue harm to the living conditions of the residential occupiers at No. 1. It is the officer view that a similar use at ground floor level would have a similar relationship with the neighbouring residential property, and restrictive conditions on hours of opening, bin collections and goods deliveries would enable the proposal to operate without adversely affecting amenity. The application proposes opening hours between noon and 2200 seven days a week, which are considered to be acceptable hours that would not significantly affect local amenity.

13. Moreover, customers leave the premises at the front, which is away from No. 1 Laurel Road and other nearby residential properties, so any potential disturbance from customers would largely be confined to the car parking area. Notwithstanding the similar existing uses and requested opening hours, to further safeguard nearby residents, the

Council's Environmental Health service has recommended (if Members were to support the application) a condition for a noise assessment to be carried out that would consider the current levels of attenuation and ensure that the levels of noise mitigation meet British Standards.

14. As well as noise and disturbance, it is the recommendation of the Environmental Health service to undertake an odour assessment, which would identify the impact of cooking odours to the local surrounds and how to protect residents from any identified harm. The drawings show that the extraction of odours would terminate through a vent on the northeast elevation, adjacent to the residential property of No. 1 Laurel Road. Concerns are raised, however, that if this ventilation point proves to be insufficient to discharge odours, an alternative solution would be required which could include the need for an external flue that may be visually prominent and unable to be supported from a Planning perspective.

Highways Considerations

15. As the proposal relates to the use of existing floorspace, it is necessary to consider the potential impact of the proposals relative to the lawful fallback position (the use of the existing units without the need for further planning consent).

16. The previous use of the two units were a betting shop and post office. Using the Tees Valley Design Guide (TVDG), these uses would require seven spaces (based on the proposed 207 square metres of floorspace provided) and two cycle spaces.

17. Using the TVDG, there are two methods for calculating the required spaces for a proposed restaurant. The first method is to require one vehicle per two seats, which would require 21 vehicular spaces; the second method is one space per 5 square metres (public space). Using 156 square metres from the plan, this would require 31 vehicular spaces to be provided and 15 cycle spaces. Whilst it is acknowledged that this is not new development, the TVDG provides a good indication of the anticipated demand.

18. The number of spaces within the car park associated with the units at Marton Estate Square is 23, plus two accessible bays (25 in total). As well as the proposed use, the car park serves the other five uses within Marton Estate Square, which would also be open during part of the proposed opening times for the restaurant being considered.

19. No servicing yard is available at Marton Estate Square, so servicing of these units occurs within the car park area. The car park has private parking management restrictions which control the duration of stay and limits use of the area to customers.

20. Based on the above, the proposals would lead to an increase in required car parking to the design guide standards of between 14 and 24 car spaces. In the best-case scenario, the development proposals would require just under 50% of the available parking stock on its own.

21. Concerns have been relayed to the applicant, who has stated that much of the custom to the proposed restaurant would arrive by non-car modes. Despite these assurances, there are concerns from the council's highways team that this cannot be relied upon, substantiated nor controlled through the granting of planning consent.

22. It is the view of Highways Officers that it is more likely that the extant uses will attract higher levels of custom by foot/cycle, as they are local facilities serving adjacent the adjacent

residential areas. The proposed use as a restaurant is likely to create a greater potential catchment area thus drawing people in from distances where car use is more likely to be the primary mode of travel, particularly later into the evening.

23. Highways Officers consider the car parking associated with the current uses is more likely to be short stay and high turnover in nature, whereas a restaurant use will result in a longer stay and thus lower turnover of spaces. This will lead to less flexibility in the use of the parking as parking spaces are occupied for longer periods of time and thus not available for other units or their customers.

24. As well as customer parking provision, consideration needs to be had to potential staffing demand. The level of staffing that could reasonably be expected to operate the current use of the units is very low (one or two staff), whereas the proposed development use is likely to have a higher staffing requirement (various kitchen staff, manager, waiting staff, cleaners etc). Due to the car parking restrictions, staff may not be able to park within the car park and, consequently, may need to park elsewhere, with adjacent public highway being the most likely location.

25. The Council's Highways service is aware of high demand for the existing spaces and has received regular complaints about parking issues in the nearby residential streets. This was exacerbated when time restrictions were introduced within the car park, which prevent staff using the car park and has resulted in many staff working in the associated businesses parking their vehicles in the surrounding residential streets. This has prompted regular complaints/requests for enforcement (monthly) from residents and elected members regarding vehicles regularly being parked obstructing footpaths, dropped kerb accesses to drives and in contravention of waiting restrictions. Complaints are also received regarding loading and unloading being carried out from the highway again blocking accesses and causing congestion on Laurel Road. Complaints (separate to this application) have also been received from residents on The Willows and existing restrictions were renewed, and additional advisory markings were installed to try to alleviate some of the parking issues associated with business. However, residents were hoping for resident parking restrictions to be introduced and such requests have continued. The enforcement requests because of parking associated with businesses, places additional demand on the Authority's enforcement resources.

26. During the application, Officers requested a parking survey to be undertaken, which would clearly demonstrate whether available parking capacity exists to serve the proposed development or, if not, what the shortfall is and the duration of time that it occurs for. Such information would have enabled a clearer assessment to be made, although the applicant was unwilling to carry out such a survey.

27. As well as not carrying out a parking survey, the applicant has failed to demonstrate that sufficient parking stock is available to serve the proposed development. The above has laid out that the development proposals are located within a local centre that is under high demand for parking, and this is demonstrated by frequent complaints from elected members and the public. This high demand is seen in parking being displaced into surrounding residential areas, which often occurs in an indiscriminate manner with parking taking place on footways, over vehicle access points and around junctions. Parking occurs for extended periods of time, as some is associated with staff based at the local centre. In view of these matters the Highway Authority has recommended refusal of the application.

28. The Marton Estate Square development was granted planning permission in 2004 with a provision of 25 parking spaces to serve the proposed units. The permission allowed retail use only at ground floor level and office use at first floor level.

29. It is noted that the existing Jolsha restaurant was granted planning permission in 2009. Not being a retail use, consideration was needed of the likely impact of the restaurant on the parking availability owing to the greater number of parking spaces required for a restaurant use. The Jolsha restaurant, however, sought consent for hours of opening between 1730 and 2300, which were deemed to be acceptable as these times would be when the majority of units at Marton Estate Square closed. This meant that the existing car park would be available for customers and staff of the restaurant.

30. The proposed restaurant as part of the current application, however, seeks hours of opening of 12 noon until 2200. This means that the proposed restaurant use would be open at times that most of the units in the parade would be open and, therefore, puts extra demand on the car parks serving the shopping parade. As the applicant has not demonstrated that the existing car park is capable of accommodating the proposed use, it is considered likely that customers and staff will be required to park elsewhere, which is expected to be the surrounding housing estates, to the detriment of the local area.

Conclusion

31. The proposed restaurant in the Marton Shops Local Centre would be deemed an acceptable use in principle, not being considered harmful to the balance of retail and non-retail uses, and would retain the vitality and viability of the centre. It has been concluded, however, that the parking required for such a development would be significantly harmful to the local area, as the existing provision of parking at the centre is considered insufficient to accommodate the parking requirements of the likely numbers of customers and staff.

32. The Council is aware through a high volume of complaints and reports that the parking of vehicles of customers and staff for the existing centre uses overflows into the local housing estates to the detriment of their residential amenity through indiscriminate parking. The introduction of another restaurant use, which would open during the day and competing for parking spaces, would further burden the surrounding housing estates with parking.

33. The officer recommendation is to refuse.

RECOMMENDATIONS AND CONDITIONS

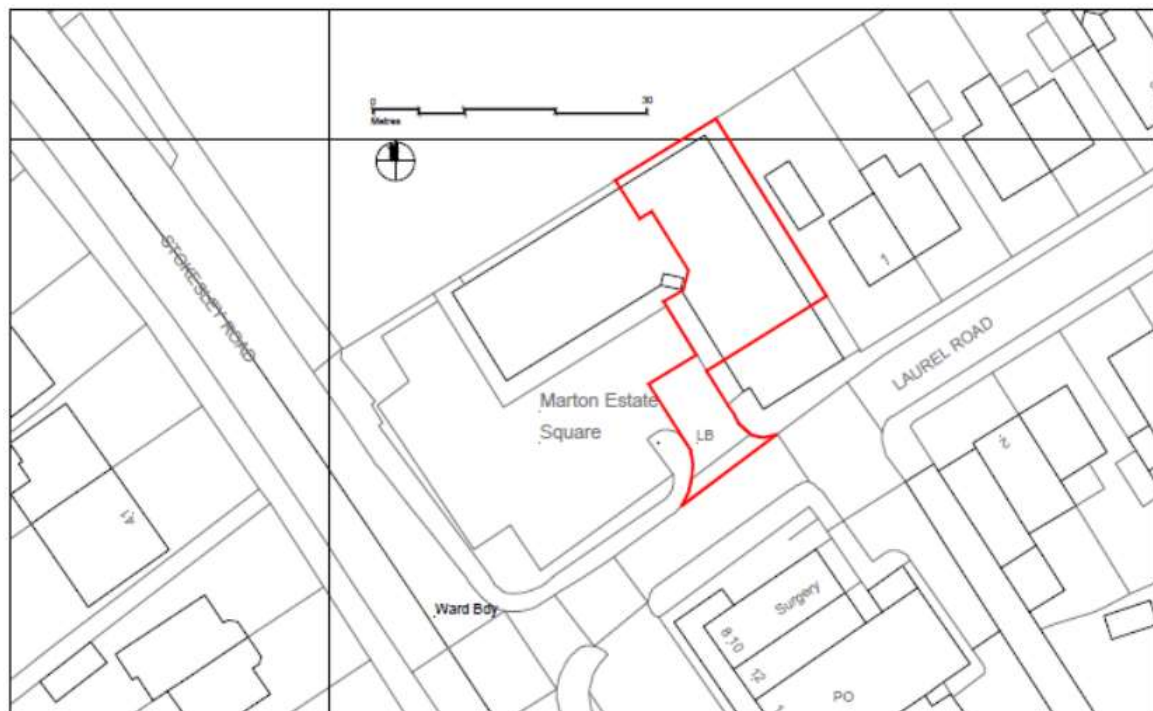
Refuse for the following reason

In the opinion of the Local Planning Authority, the proposed restaurant is considered to be an unacceptable form of development owing to the expected high levels of parking required, which would have a significant harmful impact on the local area. The existing car park at the Marton Shops Local Centre is under high demand which is shown through overflow and indiscriminate parking into the surrounding housing estates. It is considered that the proposed restaurant would exacerbate this situation, affecting the character of the

surrounding area, and will result in the loss of amenity for local residents, contrary to local policies DC1(a), (b), (c) and (d), and REG29(e) of the Council's Local Plan.

Case Officer: Peter Wilson

Committee Date: 20th January 2023



LOCATION PLAN SCALE : 1:1250@A1 1:2500@A3