

## **DELEGATED REPORT / CASE OFFICER'S ASSESSMENT**

**Ref No:** ST/0710/20/FUL  
**Proposal:** Change of use the ground floor from A1 Retail shop to Indian Takeaway with flue extraction to the rear  
**Location:** 509 Stanhope Road  
South Shields  
NE33 4QX

**Site Visit Made: 10/11/2020**

### **Relevant policies/SPDs**

- 1 LDF CS SC2 - Reviving our Town Centres and other Shopping Centres
- 2 DM1 - Management of Development
- 3 DM3 - Hot Food Uses in Shopping Centres
- 4 SPD6 - Parking Standards
- 5 SPD22 - Hot Food Takeaways and Health

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are also relevant.

### **Description of the site and of the proposals**

This application is for the change of use of a vacant retail shop (the application form states that it was last used as a retail shop selling vapour cigarettes) at 509 Stanhope Road, South Shields to a hot food takeaway with a flue extraction system to the rear.

A hot food takeaway is classed as a sui generis use (as of 1 September 2020).

There are no proposals to amend the existing front elevation of the building, including the existing shop front. However, it is proposed that a flue extraction system is installed on the rear elevation of the building and the proposed elevation drawing shows the location and design for the flue extraction system. This extends up the rear elevation wall, then along the rear roof slope, terminating close to the ridge of the roof.

The proposed floor plan shows the ground floor of the premises divided into a store area next to the rear lane, a kitchen, and a service/sales counter at the front.

The rear store area has access onto a rear lane, and the application form states that bins will be stored in this covered store area.

The application form states that the property has a gross internal floor area of 84.8 square metres.

No details with regard to the proposed opening hours are provided with the application.

Furthermore, no details have been provided with regard to the number of employees at the site.

The application site is a vacant ground floor property, located in the middle of a terrace of two storey properties on the southern side of Stanhope Road. This part of Stanhope Road comprises mixed commercial and residential properties and is located within the boundary of the Boldon Lane District Shopping Centre.

No in curtilage car parking exists at the site and none is proposed as part of this application. The property fronts onto Stanhope Road (which is a classified road), although there is no on-street parking available due to parking restrictions. However, there is a large car park to the rear of the site.

There is a first floor residential flat above the application site at No.509a) Stanhope Road, which has access from the rear lane. The adjoining property to the west of the application site comprises a ground floor hot food takeaway (The Golden Chippy at Nos. 511-513 Stanhope Road), with a residential flat above (511a Stanhope Road). The adjoining property to the east of the application site comprises a ground floor hairdressers (Bernies at No. 507 Stanhope Road), with a residential flat above (507a Stanhope Road).

In addition to the Golden Chippy at Nos. 511-513 Stanhope Road, there are other hot food takeaways at No. 501 Stanhope Road (Abbeys Balti – although that may currently be closed), and the Tasty Duck at 533 Stanhope Road.

There are also numerous other residential properties in close proximity to the application site, including residential properties further along the street and on the other side of Stanhope Road, which is completely residential apart from a bakers shop at No. 350 Stanhope Road.

**Publicity / Consultations** (Expiry date: Neighbour Notification **16/12/2020**; Consultees **17/11/2020**)

**1) Neighbours:**

One objection has been received from the owner of 501 Stanhope Road (Abbeys Balti Cuisine). They strongly disagree to another Indian takeaway opening on Stanhope Road as there is already a Chinese takeaway, 2 Indian takeaways and a pizza kebab shop on this street. Also, due to the pandemic they are already struggling for business and another business will add more pressure.

**2) Other Consultee responses:**

Public Health

Public Health object to this application and wish to submit the following comments:

South Tyneside Council and our partners have a 20 year vision that South Tyneside will be an outstanding place to live, invest and bring up families; with one of our top priority objectives being '*healthier people*'. Encouraging people to make positive decisions about things that impact on their health is an important part of helping people in South Tyneside to live healthier and longer lives and to meet the priorities of the South Tyneside Vision. A key measure of success identified for promoting '*healthier people*' is reducing obesity.

South Tyneside is higher than the national levels of both obesity and fast food outlets. Over the last 9 years, we have seen a 93% increase of fast food outlets, with a 120% increase of all food outlets. Data from Public Health England (2018) shows that there are 96.1 fast food outlets per 100,000 population in England; for South Tyneside, the data shows that this figure is 111.9 per 100,000 population.

Public Health, Planning and Environmental Health have worked together and are seeking to promote healthier living and tackle obesity by managing the proliferation of hot food takeaways. In 2015 a collaborative evidence document was produced and an updated evidence document (2017). This helped to inform and shape Supplementary Planning Document 22 (SPD22): Hot Food Takeaways & Health (2017).

Within our 'Joint Health and Wellbeing Strategy', one of our main priorities include reducing childhood excess weight and to reduce unhealthy behaviours and make healthy choices the easy choices. Within our SPD22, there are specific considerations with regard to childhood obesity:- for HFT1: Planning permission will not be granted for A5 Uses in areas where the levels of obesity in Year 6 pupils is over 10%.

The proposed location is within an area where there is sufficient takeaway food provision, together with three other A5 outlets located within the same block. The proposed application is next door to an already existing A5 classification premises.

Fast food is often a popular choice with children and younger people and can be considered a contributing factor to the increasing levels of obesity. The proposed location for the outlet is within the Biddick Hall & All Saints ward. Our NCMP (National Child Measurement Programme) data shows that in 2019/20 for this ward that **26.3%** of our **reception** children and **44.3%** of our **year 6** children have excess weight (overweight and very overweight). The data shows that **32.8%** of children within this ward are very overweight.

The government have set a national ambition 'to halve childhood obesity and significantly reduce the gap in obesity between children from the most and least deprived areas by 2030'. Working with both our internal and external partners we are playing our part in achieving this bold ambition which includes making healthier decisions, providing healthier options and creating healthier environments. This will also contribute to many physical health benefits, including reversing the emergence of Type 2 diabetes in children.

Paragraph 91 (c) of the updated National Planning Policy Framework (2018) states that 'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which [...]enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example the provision of safe and accessible green infrastructure, sports facilities, local shops, **access to healthier food**, allotments and layouts that encourage walking and cycling.'

On the basis of the information above and the specific considerations within our SPD, we feel that the application should be refused.

#### Traffic and Road Safety Team

The highways department have no objection to the proposed change of use of the ground floor from A1 Retail to Indian Takeaway. However, there are parking restrictions adjacent to the property on Stanhope Road which stipulate that there is no stopping at any time except for buses.

Vehicles accessing the property for work, services ect. must park to the rear of the property.

#### Environmental Health Team (Noise/Odours)

The Environmental Health Team has assessed the proposal in terms of the potential impact on residential amenity, specifically regarding possible noise and odour nuisance.

I have no objections to the application, this is a significantly mixed use area with similar planning uses in the immediate vicinity, ambient noise levels will be influenced by comings and goings to a number of commercial properties in the area and elevated noise from road traffic.

However, the plans that have been provided in support of the application, in particular "existing and proposed plans and elevations drawing no 0001" shows that the proposed flue terminates just below ridge level, with a rain cowl in very close proximity to a residential window. We do not generally support the installation of the proposed type of cowl as a method of flue termination,

especially in close proximity to residential properties, as it may impede the air flow needed to ensure odour is taken away from residential properties, I would recommend that the applicant considers changing the type of cowl, or extending the flue termination point beyond the ridge of the roof to ensure that any potential for cooking odours impacting on residential amenity is mitigated against as best as possible.

Should a complaint be received regarding odour or noise nuisance, the Local Authority will investigate under the Environmental Protection Act and consider the best practicable means have been employed to ensure that odour and noise has been controlled where possible.

#### Environmental Health Team (Contaminated Land)

The Environmental Health Team have no comments in respect of Land Contamination.

#### Environmental Protection Team (as Lead Flood Authority)

The Environmental Protection Team have no comments to make on flood risk.

#### Community Safety

On the basis of the information available to us, the Community Safety Team is content with the proposal.

#### Designing Out Crime Officer, Northumbria Police

Having had due regard to the application and mindful that it sits within an existing shopping street and that the rear parking for the premises acts as a buffer between it and the residential streets south of Stoddart Street, we see no compelling reason to object.

### **Assessment**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The main issues associated with the assessment of this application are:

1. The impact of the development on public health obesity levels;
2. The impact of the development on the vitality and viability of the Boldon Lane District Shopping Centre;
3. The impact of the development on the visual amenities of the area;
4. The impact of the development on the residential amenities of the area; and
5. The impact of the development on parking and highway safety

### **The impact of the development on health and obesity levels**

#### National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG)

The link between planning and health has been established in both the NPPF and PPG. Section 8 of the NPPF (February 2019) deals with “promoting healthy and safe communities”. Paragraph 91 states that “*Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

*c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of...access to healthier food...”*

The PPG (Health and Wellbeing section) states that:

*“Local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in local and neighbourhood plans and in planning decision making.*

*The range of issues that could be considered through the plan-making and decision-making processes, in respect of health and healthcare infrastructure, include how:*

*Opportunities for healthy lifestyles have been considered eg planning for an environment that supports people of all ages in making healthy choices, ..... and promotes access to healthier food .....*”

The Guidance further states:

*“Planning can influence the built environment to improve health and reduce obesity and excess weight in local communities. Local planning authorities can have a role in enabling a healthier environment by supporting opportunities for communities to access a wide range of healthier food production and consumption choices.”*

*“Local planning authorities and planning applicants could have particular regard to the ...proximity to locations where children and young people congregate such as schools, community centres and playgrounds, evidence indicating high levels of obesity, deprivation and general poor health in specific locations, and over-concentration and clustering of certain use classes within a specified area.”*

#### Supplementary Planning Document 22: Hot Food Takeaways & Health

Supplementary Planning Document 22: Hot Food Takeaways & Health (November 2017) provides additional guidance for the assessment of planning applications for Hot Food Takeaways and supports the strategic aims of South Tyneside Council in tackling unhealthy lifestyles and obesity.

This guidance explains that one of South Tyneside Council’s top priorities is to encourage people to make positive decisions about their health and a key measure of success is reduced obesity.

Many people find it difficult to eat healthy and exposure to high energy dense food where healthy choices are limited encourages excess weight and obesity. It is recognised that Hot Food Takeaways generally provide energy dense food which is low in nutrient levels and high in saturated fats and salt. Regular consumption of this type of food and low levels of physical activity can lead to excess weight and obesity. Increasing numbers of hot food takeaways make this type of food more readily accessible and can contribute to creating obesogenic environments; where unhealthy lifestyle choices are easily made.

Obesity in childhood can have significant impacts on the long term health of children, and can lead to a range of health problems such as diabetes, high blood pressure and heart disease. Restricting A5 Uses in Wards/areas where there is a high level of childhood obesity will restrict the number of hot food takeaways from increasing and contributing to the obesogenic environment. As such, this is a material planning consideration.

HFT1 of the SPD22 guidance therefore states:

*“Planning permission will not be granted for A5 Uses in areas where the levels of obesity in Year 6 pupils is over 10%.”*

This proposed hot food takeaway is located within the Biddick Hall & All Saints ward and the information contained within the SPD states that there were 15 hot food takeaways within this ward in 2017. Planning applications for hot food takeaway uses should be assessed against the most up to date annual National Child Measurement Programme (NCMP) data. The Council's Public Health Section has advised that National Child Measurement Programme (NCMP) data shows that in 2019/20 for this ward 26.3% of reception children and 44.3% of year 6 children have excess weight (overweight and very overweight). The data shows that 32.8% of children within this ward are very overweight/obese. This figure has actually increased since the adoption of SPD22 in November 2017, when the 2015/16 data in that document showed that 28.8% of year 6 children in this ward are very overweight/obese.

It should also be noted that the guidance within HFT2 of SPD22 states that outside of our designated town and district shopping centres, proposals for new A5 hot food takeaway uses will only be permitted where the premises are not within 400m of a secondary school boundary. However, because the application site is located within the defined boundary of Boldon Lane District Shopping Centre, the guidance contained within HFT2 is not relevant to the determination of this application.

An objection to the proposal has been received from the Council's Public Health Section on health grounds, particularly with regard to the impact of fast food on children and younger people.

It is therefore considered that the proposed hot food takeaway would be contrary to the Council's strategic aims in tackling unhealthy lifestyles and obesity and to the guidance contained within SPD22. It would also conflict with the NPPF and associated guidance with regard to health and well-being.

### **The impact of the development on the vitality and viability of the Boldon Lane District Shopping Centre**

Core Strategy Policy SC2 (Reviving our Town Centres and other Shopping Centres) states that developments within the designated district shopping centres, including Boldon Lane, will be promoted and supported, provided they complement, but do not adversely impact upon the regeneration of the three town centres.

Policy DM3 (Hot Food Uses in Shopping Centres) states:

*"We will assess all planning applications for cafes and restaurants (Use Class A3) and hot food takeaways (Use Class A5) in established shopping centres with regard to their impact upon the vitality and viability of the shopping centre and the borough's shopping centre hierarchy, residential amenity, highway safety and any existing crime and anti-social behaviour.*

*To avoid an over concentration of hot food uses in our district shopping centres (such as Boldon Lane) we will only grant planning permission for the change of use of ground floor properties within district shopping centres to cafes and restaurants (Use Class A3) or hot food takeaways (Use Class A5) where it would not:*

- A) result in the loss of a prominent retail unit(s); or*
- B) result in more than two hot food outlets (Use Classes A3 or A5) adjacent to each other; or*
- C) lead to more than two hot food outlets (Use Classes A3 or A5) in any continuous frontage of 10 retail units or less.*

*In addition to criteria A, B and C, the potential overall impact of the proposal on the vitality and viability of the district shopping centre should be assessed."*

The application site is a vacant existing retail shop, understood to be formally occupied by a shop selling vapour cigarettes. Although the property is currently vacant, the proposed change of use to a hot food takeaway would result in the loss of this retail use.

There are three existing hot food outlets within this block of Stanhope Road, at Nos. 513-515 Stanhope Road (The Golden Chippy), which adjoins the application site, No. 501 Stanhope Road (Abbey Balti), and 533 Stanhope Road (The Tasty Duck).

If approved, the proposed development would increase the number of hot food takeaways in this block to four. The proposed development would result in more than two hot food outlets in the continuous frontage of 10 retail units or less, contrary to Policy DM3.

It is considered that there is already an over-concentration of hot food uses within this part of the Boldon Lane District Shopping Centre.

Hot food uses, and in particular takeaways, are often closed during the daytime, and this may result in dead frontages that cause harm to the character and vitality of a shopping centre. Any over-concentration of such uses also reduces the retail choice and retail shop function of a shopping centre.

Whilst it is acknowledged that the planning application form does not provide any details with regard to the proposed opening hours for the hot food takeaway, the proposal may lead to a dead frontage within the shopping centre during daytime hours.

The proposed change of use of this ground floor retail unit to a hot food takeaway would exacerbate the over-concentration of hot food outlets within the Boldon Lane District Shopping Centre and further reduce the retail choice and retail function of the shopping centre. It is therefore considered that the proposed development would result in a materially harmful impact on the vitality and viability of the shopping centre.

As such, it is considered that the proposed hot food takeaway would have an unacceptable impact on the vitality and viability of the Boldon Lane District Shopping Centre and would be contrary to Core Strategy Policy SC2 and Development Management Policy DM3 of the South Tyneside Local Development Framework.

### **The impact of the development on the visual amenities of the area**

#### *The NPPF (February 2019)*

Section 12 of the NPPF deals with “achieving well-designed places” and promotes good design to create better places in which to live and work and help make development acceptable to communities.” It states planning decisions should ensure that developments are visually attractive as a result of good architecture.

#### *South Tyneside Local Development Framework*

Local Development Framework Policy DM1(A) states that in determining all applications we will ensure that the development, including alterations to existing buildings, is designed to convey sensitive consideration of its surroundings, and that where possible enhance its local setting and reinforce local identity.

Guidance contained within SPD22: Hot Food Takeaways & Health states that hot food takeaways must provide appropriate extraction systems which must have minimal impact on visual amenity, including location and external finish.

The proposed development does not propose any alterations to the front elevation and as such it would not have an unacceptable impact on the Stanhope Road streetscene. (Although the Design and Access Statement submitted with the planning application indicates that a new sign will be provided, that would be the subject of a separate consent under the advertisement regulations.).

The proposed development includes the installation of a large extract flue on the rear elevation of the property, which extends up the rear elevation wall of the property, then along the rear roof slope, terminating close to the ridge of the roof.

However, given the proposed location of the flue on the rear elevation of the property, together with the number of other commercial properties within the street, it is considered that such an extraction flue would not have an unacceptable impact on the visual amenities of the area.

As such, it is considered that the proposed development would be in accordance with Policy DM1(A).

### **The impact of the development on the residential amenities of the area**

#### Local Development Framework

Local Development Framework DM1(B) states that in determining all applications we will ensure that the development is acceptable in relation to its impact on residential amenity. The accompanying text states that we will assess impact on residential amenity in relation to a number of matters, including noise, vibration, disturbance from any proposed activity (including traffic related noise and the comings and goings of visitors to premises particularly when late evening activity is involved), smell and fumes.

Policy DM3 (Hot Food Uses in Shopping Centres) states applications for hot food takeaways in established shopping centres (including district shopping centres such as Boldon Lane) will be assessed with regard to their impact on residential amenity.

In addition, guidance HFT3 of SPD22 Hot Food Takeaways and Health states:

“Proposals for Hot Food Takeaways should not have a negative impact on the amenity of neighbouring residents and the area.”

The guidance further states that “protecting the living conditions of residents in close proximity to a proposed hot food takeaway is a major consideration when assessing applications for new hot food takeaways.”

SPD22 states that the activities associated with the use of a hot food takeaway tend to peak at times when background noise levels are considered to be low. Therefore, it is important that all potential sources of disturbance are considered and mitigated against.

There is a first floor flat above the application site (at No. 509 Stanhope Road) and a first floor flat to each side of the property (at No. 511a Stanhope Road and 507a Stanhope Road). There are also residential properties further along the street and on the opposite side of the road.

There are other hot food takeaways on Stanhope Road that are open in the late evening that will already generate an element of evening noise, and the property also fronts onto a busy classified road.

The proposed development has been assessed by the Council’s Environmental Health Section with regard to noise and odours and they have no objections. They have advised that this is a mixed use area with similar planning uses in the immediate vicinity, and ambient noise levels will be influenced by the comings and goings to a number of commercial properties in the area and elevated noise from road traffic.

However, they have advised that the application drawing shows that the proposed flue terminates just below ridge level, with a rain cowl in very close proximity to a residential window. They do not generally support the installation of the proposed type of cowl as a method of flue termination, especially in close



proximity to residential properties, as it may impede the air flow needed to ensure odour is taken away from residential properties. They therefore recommend that the applicant considers changing the type of cowl, or extending the flue termination point beyond the ridge of the roof to ensure that any potential for cooking odours impacting on residential amenity is mitigated against as best as possible.

Should a complaint be received regarding odour or noise nuisance, the Local Authority will investigate under the Environmental Protection Act and consider the best practicable means have been employed to ensure that odour and noise has been controlled where possible.

Should the application be considered to be acceptable with regard to all other matters and is recommended for approval, they have advised that a condition is attached to any permission requiring the submission and approval of details of the extraction flue, including the scheme of odour abatement that will be employed, to ensure there is no unacceptable impact on residential amenity.

Subject to such a condition, on balance, it is considered that the proposed development would not have an unacceptable impact on the residential amenities of the occupiers of nearby residential properties and it would be in accordance with Development Management Policy DM1 (B) of the South Tyneside Local Development Framework or the guidance contained within SPD22 or the NPPF.

### **The impact of the development on parking and highway safety**

Local Development Framework Policy DM1(G) requires the impact of developments to be acceptable in relation to highway capacity and safety and the associated SPD6 document sets out the parking standards that the Council will have regard to in assessing proposals for new development. There is no minimum parking provision standard and these standards relate to the maximum levels of provision for car parking. Maximum car parking standards help to deter unnecessary car use and encourage more sustainable forms of transport in accordance with national planning policy. However, it is also important to balance this aim with often conflicting objectives by ensuring that parking demand does not create adverse implications for road safety, traffic flow or residential amenity.

The Council's Traffic and Road Safety Team have been consulted on the proposed development and no objections have been received.

There is no in-curtilage car parking currently provided on site with regard to the existing A1 retail use and no parking is proposed as part of this application for a hot food takeaway. Although there are parking restrictions to the front of the property on Stanhope Road, there is a large public car park to the rear of the street, within a few minutes' walk of the site.

The Council's Traffic and Road Safety Team have no objection to the proposed development.

However, they have advised that there are parking restrictions adjacent to the property on Stanhope Road which stipulate that there is no stopping at any time except for buses. Vehicles accessing the property for work, services ect. must therefore park to the rear of the property.

As such, the proposed development is considered to be acceptable with regard to its impact on parking and highway safety and is in accordance with Policy DM1(G) and the guidance contained within SPD6.

### **Conclusion**

It is considered that the proposed hot food takeaway would be contrary to the National Planning Policy Framework and associated National Planning Practice Guidance with regard to health and well-being. It would also fail to accord with the guidance contained within the Council's Local Development Framework Supplementary Planning Document 22: 'Hot Food Takeaways and Health' which supports the Council's strategic aims in tackling unhealthy lifestyles and obesity.

In addition, it is considered that there is already an over-concentration of hot food outlets within the Boldon Lane District Shopping Centre and the proposed hot food takeaway would further reduce the retail choice and retail function of the shopping centre, resulting in a harmful impact on the vitality and viability of the shopping centre, contrary to Core Strategy Policy SC2 and Development Management Policy DM3 of the South Tyneside Local Development Framework.

In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

## **Recommendation**

Refuse Permission

## **Refusal Reasons**

- 1 Central government planning policy encourages healthy lifestyles, including through the provision of access to healthier food. The Council's Local Development Framework Supplementary Planning Document 22: 'Hot Food Takeaways and Health' recognises that, in general, fast food is often a popular choice with children and younger people and can be considered a contributing factor to the increasing levels of obesity due to it consisting mostly of energy dense food which is high in saturated fats and salt, and low in nutrient levels.

The proposal is situated within the Biddick Hall & All Saints Ward of the Borough of South Tyneside where childhood obesity levels for year 6 pupils exceeds 10%. The most up to date data (2019/20) from the National Child Measurement Programme shows that 32.8% of year 6 children in this ward are very overweight/obese.

As such, the proposed hot food takeaway would be contrary to the National Planning Policy Framework and associated National Planning Practice Guidance with regard to health and well-being. It would also fail to accord with the guidance contained within the Council's Local Development Framework Supplementary Planning Document 22: 'Hot Food Takeaways and Health' which supports the Council's strategic aims in tackling unhealthy lifestyles and obesity.

- 2 There are already three hot food takeaways within this relatively small block of properties on Stanhope Road, within the Boldon Lane District Shopping Centre. The proposed change of use of this ground floor retail unit to a hot food takeaway would result in an overconcentration of hot food takeaways in this area and further reduce the retail choice and retail function of the shopping centre. The proposed development would thereby result in a materially harmful impact on the vitality and viability of the shopping centre. As such, the proposed development would be contrary to Core Strategy Policy SC2 and Development Management Policy DM3 of the South Tyneside Local Development Framework.

## **Informatives**

- 1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework to seek to approve applications for sustainable development where possible. However, the proposed development is contrary to the policies referred to in the reason(s) for refusal and it has not been possible to reach an agreed solution in this case.

**List of refused plans for standard note**

**Plan Reference**

Drg No 0002 received 05/10/2020

Drg No 0001 received 01/09/2020

**Case officer:**

**Signed:**

**Date:**

**Authorised Signatory:**

**Date:**

«END»