
APPLICATION DETAILS

Application No:	16/5269/COU
Location:	2A Woodrow Avenue Middlesbrough TS7 8EZ
Proposal:	Change of use from shop (A1) to hot food takeaway (A5)
Applicant:	Mr Mosam Ali
Agent:	Mr Stephen Chambers
Ward:	Marion West
Recommendation:	Refused

SUMMARY

This application seeks permission to change the use of an existing detached, single storey retail premises located in a residential area, to a hot food takeaway.

Following a consultation exercise 62 objections were received from local properties.

The proposed scheme is considered to be in conflict with relevant local planning policies DC1, CS5, CS13 and REG29. The development will result in a detrimental impact on the amenities of nearby residents and the streetscene and is not appropriate in a residential location when there is a vacant unit located within nearby allocated local centres.

It is recommended that the application is refused.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is a detached single storey building located on the east side of Woodrow Avenue approximately 40m north of the junction with Canberra Road.

The application site was previously a detached residential garage that was converted to retail use in 1967.

This application seeks permission to change the use of the premises from A1 (retail) to A5 (hot food takeaway). There are no proposed alterations to the external elevations.

During the application process the applicant was asked to submit a Noise Assessment, Odour Assessment and a Sequential test. Subsequently a supporting statement was submitted that refers to each of the documents requested and details the waste collection information for the scheme.

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
 CS13 - Town Centres etc Strategy
 REG29 - Local Centres

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

Consultations have been sent to statutory consultees, local residents, Ward Councillors, and the Community Councils. Consultee responses are as follows;

MBC - Environmental Health - no objection subject to conditions relating to a noise assessment, ventilation and extraction systems, hours of opening and hours of deliveries.

MBC - Highways - no objection

MBC - Planning Policy - concerns raised regarding appropriateness of site due to the proximity to residential dwellings and there is a vacant unit at the nearby Local Centre.

MBC - Refuse - object, at the time of commenting no details of waste storage had been submitted.

Councillor Chris Hobson - object

This is certainly not the area for a hot food takeaway, a lot of the residents are elderly. We have enough takeaways in the surrounding area.

Marion West Community Council - objects

- There is no need for yet another take-away in this area. It would be sited mid-way between the Parkway Centre and Marion/Stokesley Road shops which both have an abundance of takeaways, already including an Indian one.
- The Woodrow Avenue area is mainly bungalows with elderly residents. This application would change the ambience from a quiet residential area to one which would have opening hours up to 11pm so encouraging groups of people to congregate, no doubt creating noise and nuisance to the area.
- We query the facilities which this premise offers taking regard of Food Hygiene and Environmental Health legislation and regulations.

Following a consultation exercise 62 comments were received from local properties, these are summarised in appendix 1 at the end of this report. The main objections relate to:

- Noise
- Odours
- Youths loitering
- Anti-social behaviour
- Out of keeping with residential area of elderly residents
- Litter
- Vermin
- Enough takeaways in area
- Inadequate parking
- Increase in traffic
- Increase in pollution

A full list of properties which objected and a summary of their comments are listed in the appendix at the end of this report.

Public Responses

Number of original neighbour consultations	22
Total numbers of comments received	75
Total number of objections	74
Total number of support	0
Total number of representations	0

PLANNING CONSIDERATION AND ASSESSMENT

1. This planning application is for a change of use from a1 retail to a5 hot food takeaway. The principle issues to be considered in the analysis of this application are the appropriateness of the use in the proposed location, the impact on the amenity of local residents and the impact on the amenity of the area.

2. Concerns were raised about increase in litter, impact on the health of local residents, vermin, and anti-social behaviour. These are matters addressed under other legislation and not material to the consideration of this application.

Policy

3. Concerns have been raised regarding the appropriateness of the location due to the proximity to local residential dwellings and the location of the site outside the allocated local centres. Policy CS13 lists the allocated town, district, local and neighbourhood centres. The application site is not located within an allocated shopping centre. However, it is located approximately 300m from the Marton Road/Gypsy Lane medium scale local centre.

4. Policy REG29 further defines Local Centres and details what developments are appropriate for the centres which include a1 retail uses and other complementary uses. The aim of the policies CS13 and REG29 is to identify, protect and enhance the hierarchy of vital and viable, town, district, local and neighbourhood centres in the town.

5. Following the concerns raised, and in line with the requirements of the NPPF, the applicant was asked to submit a sequential test to determine if there are more appropriate locations for the proposed use. The sequential approach aims to ensure that the vitality and viability of town, district and local centres are not affected by development in other areas.

6. The sequential test revealed a vacant unit at the nearby Marton Local Centre. As a result the applicant was informed that from a planning view the vacant unit at the nearby local centre would be a more suitable location for the use. Subsequently correspondence from the agent for the vacant unit was submitted to demonstrate that the property could not be used as a hot food takeaway, and therefore the unit was not available. However, after examining the information submitted it is clear that the correspondence from the representative of the vacant unit simply states that the current use of the premises is a1 retail and it is being marketed as such. It does not confirm that the owner will not let the premises for hot food purposes, simply that planning permission is required. Below is an extract from an email on behalf of the leaseholder, for the vacant unit that confirms this stance:

"Although the unit is currently vacant, the unit is held under a current lease and North East Commercial are marketing the property on behalf of the leaseholder not the Landlord. The existing lease has A1 use only and is being marketed on that basis."

7. Hot food takeaways are often associated with antisocial behaviour, noise from people visiting the premises, litter etc. all of which can have a significant impact in a residential area. The use proposed would be more appropriately located in a local centre where the level of activity, and potential associated anti-social behaviour, can be more easily assimilated, without unduly harming the predominantly residential nature of the area.

8. It is the planning view that the proposed use would be better placed within a local centre and the sequential test has demonstrated that there is a vacant unit in the nearby centre. If the application were approved at the current site it could affect the vitality and viability of the nearby local centre in conflict with policies CS13 and REG29.

Amenity and Streetscene

9. The application site is a detached, single storey building. It is one of four retail premises located on Woodrow Avenue which are surrounded by residential properties. The four retail units consist of the application site (previously used as a hairdressers), a hairdressers, a newsagents and a hair and beauty salon. There are residential flats above two of the retail premises which are immediately adjacent to the application site. The building is located adjacent to the boundary of 1 Canberra Road whose rear elevation is located approximately 3m from the application site at its closest point. 1 Woodrow Avenue is located opposite the application site at a distance of approximately 20m.

10. Objections have been received regarding noise and odours generated from the use. Information was submitted in support of the application which relates to the type of extraction unit that will be used at the premises. Although the full details of the extraction system were not submitted Environmental Health have confirmed that following the submission of the additional information, they are satisfied that any noise and odour from the unit can be controlled through the use of conditions relating to a noise assessment, ventilation and extraction systems, hours of opening and hours of deliveries.

11. The application form states that the opening hours of the premises will be from 4pm to 11pm. The supporting information states that there was previously an off licence in one of the four units on Woodrow Avenue which opened to 11pm and therefore the late opening time for the takeaway will have no more impact than this.

12. As the property is located in a predominantly residential area it is reasonable to conclude that the intention is to cater for local customers. However, there can be no control over the comings and goings of vehicular-borne customers, with associated noise of engines revving and doors slamming. Such customers will tend to park where convenient, even if it is outside neighbouring dwellings. As stated in paragraph 7 above the proposed use would be

more appropriately located within a local centre where the level of activity can be more easily assimilated, without unduly harming the predominantly residential nature of the area.

13. Given the very close proximity of dwellings to the premises, it is the planning view that the proposed hot food takeaway use in this location would give rise to an unacceptable reduction in the living conditions of neighbouring residents due to noise and disturbance, contrary to the aims of policy CS5(e) and policy DC1(c) of the Local Development Framework.

14. As the premises will not be open until 4pm this will result in the building being closed with shuttered frontage during the normal working day. This is undesirable in a residential area as it will result in an unattractive appearance in the streetscene during the day in conflict with policy DC1(b) and CS5(e).

15. If this application is refused it may result in the unit sitting empty whilst an alternative use is found. However, it is the planning view that this does not outweigh the negative impacts of a hot food take away in this location as detailed above.

Highways

16. There is a small parking area located to the front of the four retail units for approximately 7 cars which can be utilised by persons visiting the premises. There are no parking restrictions along Woodrow Avenue. The use of the premises for a hot food takeaway will not alter the existing parking provision.

17. The hot food use will be open from 4pm to 11pm, as a result the use will not result in increased use of the parking area during the day. The unit will be open when other units are closed and therefore will benefit from a greater parking provision. The Local Highway Authority have not raised any objection to the application.

Conclusion

18. For the reasons set out in this report it is the planning view that the use of the application site as a hot food takeaway will result in significant harm to the amenities of the nearby residential occupiers and would have a detrimental impact on the streetscene and the character of the area in conflict with policies DC1(c and b) and CS5(e). The use is also in conflict with policies CS13 and REG29 as there is a vacant unit located within the nearby local centre.

RECOMMENDATIONS AND CONDITIONS

Refused

1. This application is considered to be unsatisfactory in that proposed change of use to a hot food takeaway does not accord with the principles of the National Planning Policy Framework and the Local Development Framework policy requirements (policies CS13, REG29, CS5(e) & DC1(b and c)).

2. The sequential test has demonstrated that there is a unit available within a local centre which is a more appropriate location for the use.

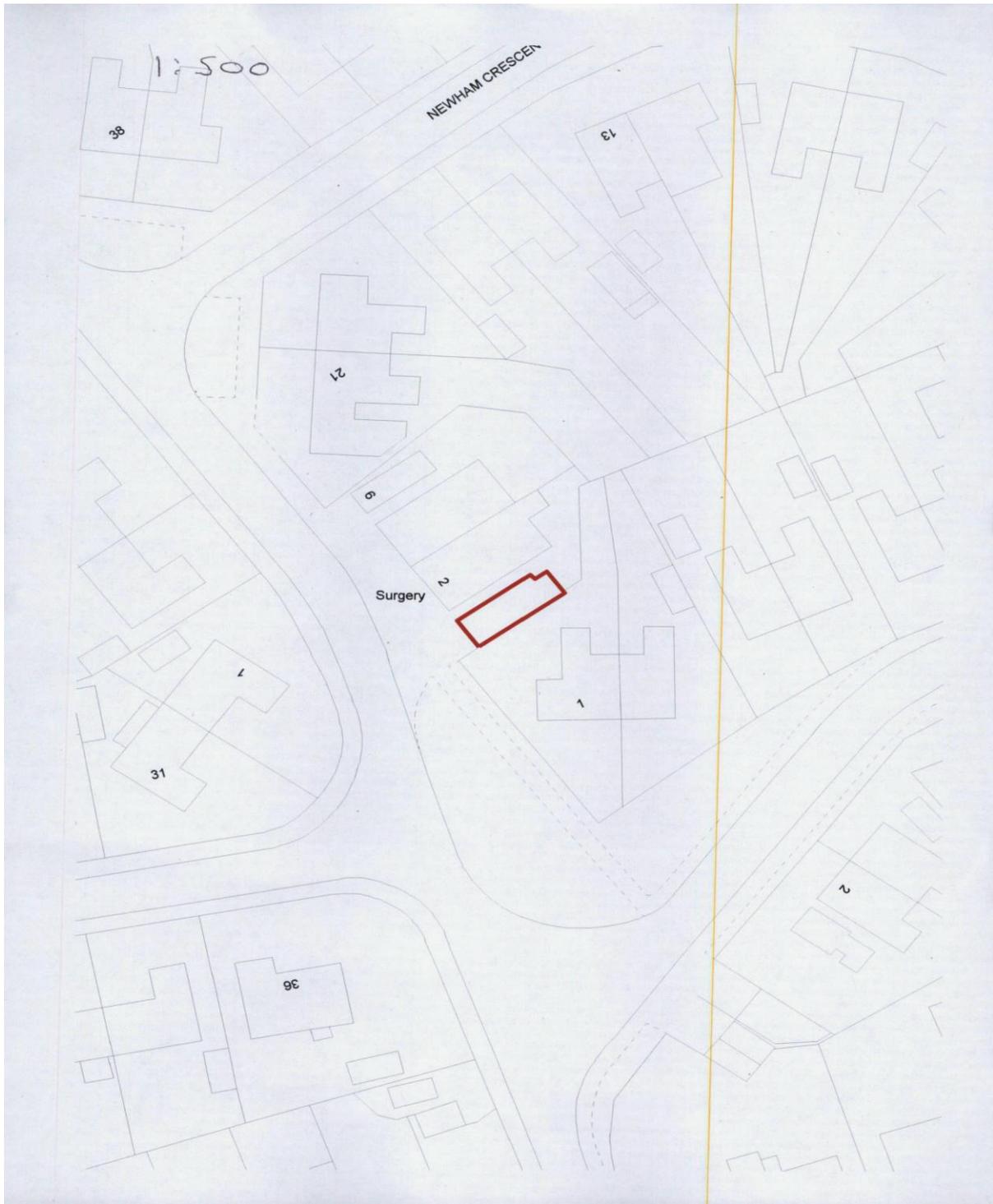
3. The proposed change of use would be detrimental to the street scene, character of the area and the amenity of nearby residential occupiers.

INFORMATIVES

Case Officer: Shelly Pearman

Committee Date: 3rd March 2017

Site Location Plan



Appendix 1

Summary of resident's comments received

44 Gunnergate Lane – object

- Existing litter issue would get worse
- Lots of elderly people in area, groups of youngsters will gather late at night causing a disturbance
- Lots of takeaways at Marton shops
- Wrong place for this use

40 Gunnergate Lane – object

- Close to adjoining properties
- General dislike of proposal
- Inadequate parking provision
- Increase in traffic
- Increase of pollution
- Noise nuisance
- Out of keeping with character of area
- Lots of takeaways in area

20 Newham Crescent – object

- Lots of takeaways in area
- Unsuitable location

Insufficient parking

- Noise nuisance
- Odour nuisance
- Increase in traffic

1 Newham Crescent – object

- Late night opening will cause problems
- Noise
- Agree with comments from flyer that has been posted round

2 Newham Crescent – object

- Too close to residential properties
- Increase in traffic
- Insufficient parking
- Noise
- Odours
- Vermin
- Youths will hang around
- Anti-social behaviour
- Sufficient food shops nearby

5 Newham Crescent – object

- Conflict with local plan
- Inadequate access
- Inadequate parking provision
- Increase in traffic
- Increase of pollution
- Noise nuisance
- Out of keeping with character of area
- My house will be directly affected by odours

- Increase in litter
- Increased risk to children due to increase traffic

15 Newham Crescent – object

- Enough takeaways in area
- Small local elderly community
- Gangs of young people
- Odours
- Rodents
- Litter
- Insufficient parking

19 Newham Crescent – object

- Close to adjoining properties
- General dislike of proposal
- Inadequate access
- Inadequate parking
- Increase in traffic
- Increase in pollution
- Loss of privacy
- Noise
- Out of keeping with area
- Traffic
- Odours
- Residential area with elderly residents
- Youths
- Enough takeaways in area
- Premises too small
- Vermin

21 Newham Crescent – object

- Appearance
- Close to adjoining properties
- General dislike of proposal
- Inadequate parking
- Increase in traffic
- Loss of parking
- Loss of privacy
- Out of keeping with character of area
- Odours
- Devalue property
- Litter

24 Newham Crescent – object

- Odours
- Inadequate parking
- Noise
- Increase in traffic

28 Newham Crescent – object

- Enough takeaways in area
- Limited parking
- Premises too small
- Residential area with elderly residents

- Litter
- Youths
- Odours

32 Newham Crescent – object

- Partner is blind and already has difficulty passing the shops due to level of traffic, a takeaway will make it worse.
- Lots of takeaways in area
- Most residents in area are elderly
- Increase noise
- Increase in traffic
- Increase in litter
- Odour nuisance
- Insufficient parking

34 Newham Crescent – object

- Residential estate with elderly residents
- Minimal passing trade
- Premises not large enough
- Inadequate parking
- Increase in traffic
- Hazardous roads
- Youths
- Litter
- Vermin
- Odours
- Noise
- Enough takeaways in area

36 Newham Crescent – object

- Close to adjoining properties
- Inadequate parking
- Increase in traffic
- Increase in pollution
- Loss of parking
- Noise
- Out of keeping with area
- Enough takeaways in area
- Residential area with elderly residents

38 Newham Crescent – object

- Light pollution
- Noise pollution
- Odour pollution
- Lots of takeaways in area
- Inadequate parking
- Loss of privacy
- Risk to children from increased traffic
- Litter
- Out of character with area
- Drunks will hang around

32 The Gables – object

- Increase in traffic

- Noise nuisance
- Over development
- Elderly residents
- Lots of takeaways in area
- Premises not large enough to prepare and sell hot food

2 The Gables – object

- Residential area with elderly residents
- Odours
- Litter
- Noise
- Youths

21 The Gables – object

- Noise
- Inadequate parking
- Litter
- Odours
- Youths
- Elderly residents in area

27 The Gables – object

- Quiet residential area
- Increase footfall of undesirables
- Would feel vulnerable

28 The Gables – object

- General dislike of proposal
- Inadequate parking
- Increase in traffic
- Increase in pollution
- Loss of parking
- Loss of privacy
- Noise
- Out of keeping with character of area
- Strain on existing community facilities
- Residential area with elderly residents
- Youths
- Premises not large enough
- Litter
- Enough takeaways in area
- Odours

29 The Gables – object

- Application form not completed fully
- No information regarding waste collection
- States no trade effluent
- States no change to exterior of building. Difficult to comprehend when its use is being completely changed
- More residents should have been consulted
- States no trees or hedges adjacent to premises, this is untrue
- Inadequate parking
- No details about the interior
- Noise

- Smells
- Pollution
- How can planning be supportive of the application when so much detail is missing
- Quiet area populated by elderly
- Risk to personal safety of residents and their properties
- Lots of takeaways in area
- Litter
- Vermin
- Does not promote healthy living

34 The Gables – object

- Appearance
- Close to adjoining properties
- General dislike of proposal
- Inadequate access
- Inadequate parking provision
- Increase in traffic
- Increase in pollution
- Noise
- Litter
- Out of keeping with character of area

36 The Gables – object

- Inadequate parking
- Increase in traffic
- Increase in pollution
- Noise
- Out of keeping with character of area
- Litter
- Enough takeaways in area

1 Canberra Road – object

- Out of keeping with the character of the area
- Not in a commercial area
- In direct conflict with the local plan
- Close to adjoining properties
- General dislike of proposal
- Inadequate parking
- Increase in traffic
- Increase in pollution
- Noise
- Only 3m from my property
- Odours
- Light pollution
- Litter

20 Canberra Road – object

- Lots of takeaways in area
- Increase in traffic
- Noise
- Litter
- Appearance
- Close to adjoining properties

- General dislike of proposal
- Inadequate parking
- Increase in pollution
- Loss of privacy
- Out of keeping with area

2 Canberra Road – object

- Quiet residential area
- Enough takeaways in area
- Youths
- Odours
- Control of non-recyclable waste
- Litter
- Noise
- Devalue property

3 Canberra Road – object

- Residential area with elderly residents
- Youths
- Noise
- Odours
- Enough takeaways in area

4 Canberra Road – object

- Litter
- Youths
- Increase in traffic
- Noise
- Elderly residents in area

10 Canberra Road – object

- Out of character for area
- Close to adjoining properties
- General dislike of proposals
- Inadequate parking
- Enough takeaways in area
- Residential area with elderly residents
- Youths loitering
- Increase in traffic
- Noise
- Litter
- Odours

11 Canberra Road – object

- Appearance
- Close to adjoining properties
- General dislike of proposal
- Inadequate parking
- Increase in traffic
- Increase in pollution
- Out of keeping with character of area
- Vermin
- Devalue property
- Odours

- Noise
- 12 Canberra Road – object
- Residential estate
 - Enough takeaways in area
- 15 Canberra Road – object
- Lots of takeaways in area
 - Close proximity to residential dwellings
 - Increase in noise
 - Increase in litter
 - Congregating youths
- 17 Canberra Road – object
- Enough takeaways in area
 - Premises too small
 - Residential estate with elderly residents
 - Youths
 - Noise
 - Inadequate parking
 - Noise
- 18 Canberra Road – object
- Residential area
 - Enough takeaways in area
 - Elderly residents in area
- 25 Canberra Road – object
- Residential area with elderly residents
 - Odour
 - Litter
 - Increase in cars
 - Noise
 - Youths
 - Enough takeaways in area
- 30 Canberra Road – object
- Enough takeaways in area
 - Litter
 - Youths
 - Anti-social behaviour
 - Premises too small
- 40 Canberra Road – object
- Poor vehicle access, the surrounding roads are dangerous enough increase in traffic will add to the problem
 - Inadequate parking
 - Increased pollution
 - Effects on health and increased obesity, there are enough takeaways in the area
 - Antisocial behaviour
- 42 Canberra Road – object
- Enough takeaways in area
 - Residential area with elderly residents

- Premises not large enough
- Litter
- Noise

47 Canberra Road – object

- Opposite bungalows with elderly folk

57 Canberra road – object

- Enough takeaways in area
- Residential area with elderly residents
- Attract gangs of youths
- Odours
- Not large enough premises
- Litter
- Noise

82 Canberra Road – object

- Enough food outlets at Marton Shops
- Quiet residential area with elderly residents
- Noise
- Gangs of youths

14 Albany Road – object

- Inadequate parking
- Not appropriate development

28 Albany Road – object

- Appearance
- Close to adjoining properties
- Inadequate access
- Inadequate parking provision
- Increase in traffic
- Increase of pollution
- Loss of privacy
- More open space needed on development
- Noise nuisance
- Out of keeping with character of area
- Elderly residents within close proximity

1 Woodrow Avenue – object

- Affect character of area
- High proportion of elderly people
- Bedroom faces premises, concerned about noise
- Increase traffic
- Inadequate parking
- Lots of takeaways in area

3 Woodrow Avenue – object

- Appearance
- Enough takeaways in area
- Residential area with elderly residents
- Youths
- Anti-social behaviour
- Inadequate parking

- Noise
- Odours
- Close to adjoining properties
- General dislike of proposal
- Inadequate access
- Loss of privacy

12 Woodrow Avenue – object

- Litter
- Odour
- Vermin
- Noise
- Youths
- Parking problems
- Enough takeaways in area

13 Woodrow Avenue – object

- Affect local ecology
- Appearance
- Close to adjoining properties
- General dislike of proposal
- Inadequate access
- Inadequate parking
- Increase in traffic
- Increase in pollution
- Noise
- Out of keeping with character of area
- Over development
- Strain on existing community facilities
- Traffic
- Enough takeaways in area
- Odours
- Residential area
- Vermin
- Youths

14 Woodrow Avenue – object

- Wrong place in a residential area with elderly residents
- Enough takeaways in the area
- Already parking issues, this will add to it
- There have been accidents outside the premises
- Increase in litter

15 Woodrow Avenue – object

- General dislike of proposal
- Inadequate access
- Inadequate parking provision
- Increase of pollution
- Information missing from plans
- Noise nuisance
- Not enough info given on application
- Out of keeping with character of area
- Attract youths
- Litter

- Elderly residents in area

5 Woodrow Avenue – object

- Lots of takeaways in area
- Light pollution from cars
- Noise
- Odours
- Inadequate parking
- People loitering on the street

27 Woodrow Avenue – object

- Enough takeaways in area
- Residential area with elderly residents
- Youths
- Anti-social behaviour
- Noise
- Odours
- Litter
- Inadequate parking
- Increase in traffic

32 Woodrow Avenue – object

- Enough takeaways in area
- Residential area
- Traffic congestion
- Noise
- Youths
- Odours
- Litter

37 Woodrow Avenue – object

- Enough takeaways in area
- Youths
- Litter
- Mainly elderly estate
- Inadequate parking

47 Woodrow Avenue – object

- Quiet area with lots of elderly residents
- Attract anti-social behaviour and gangs congregating
- Noise
- Litter
- Odours

7 Perth Crescent – object

- Appearance
- General dislike of proposal
- Inadequate parking provision
- Increase in traffic
- Increase of pollution
- Noise nuisance
- Not enough info given on application
- Out of keeping with character of area
- Over development

- Traffic or Highways

3 Sydney Road – object

- Elderly residents in area
- Enough takeaways in area
- Increase traffic
- Youths
- Litter
- Anti-social behaviour
- Odours
- Reduce value of properties

13 Sydney Road – object

- Lots of takeaways in area
- Wrong place as mainly elderly residents in area
- Will attract gangs of youths
- Odours
- Litter
- Noise
- Not large enough premises

4 Topcroft Close – object

- Would cause a lot of problems in the area

70 Shevington Grove – object

- Moving to Canberra Road
- Residential area
- Enough takeaways in area
- Odours
- Increase in traffic
- Noise
- Inadequate parking
- Youths

68 Cambridge Avenue, Marton – object

- Enough takeaways in area
- Residential area
- Youths
- Noise
- Litter
- Odours
- Inadequate parking

16 Brookdale Road – object

- Residential area with elderly residents
- Enough takeaways in area
- Youths
- Litter
- Odours
- noise

8 Tanberra Road – object

- Residential estate with elderly residents
- Enough takeaways in area