

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 20 November 2013

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APPLICATION REF. NO:	13/00653/CU
STATUTORY DECISION DATE:	15 October 2013
WARD/PARISH:	CENTRAL
LOCATION:	First Floor, 1 Bondgate, Darlington
DESCRIPTION:	Change of Use from Hairdressers (A1) to Private Members Club (D2)
APPLICANT:	Mr Ian Briggs

Members deferred a decision on this proposal at the Planning Applications Committee on 23 October 2013 to allow the applicant to submit further information regarding whether or not the first floor can be made fully accessible for disabled persons. At the time this report was drafted the information was still awaited but it is expected to be submitted shortly. The additional information will be reported verbally to the Planning Applications Committee.

APPLICATION AND SITE DESCRIPTION

The application site is part of a three storey building on the corner of High Row and Bondgate, also known as Kenneth House. The ground floor is occupied by an Opticians and a Building Society (both accessed from High Row), the first floor was last occupied by a hairdressers/therapist and the second floor is office space. The upper floors are accessed via an entrance off Bondgate. The property is within the Town Centre Conservation Area.

This application is for a change of use of the first floor to a private members snooker club. The premises would contain Ladies and Gents WCs, the main area for two snooker tables and a Reading Room. Access to the first floor would remain via the entrance off Bondgate. Members would access the club through a glazed front entrance door, which has a security lock, and up a staircase. There would be no external alterations to the building. The hours of opening for the club would be 09:00 to 23:00 Monday to Sunday.

The Club currently resides at the first floor of the Mechanics Institute, Skinnergate and they are seeking alternative premises as they must vacate the building to enable the Institute to be converted to a Public House and night club.

PLANNING HISTORY

None

PLANNING POLICY BACKGROUND

The following policies are relevant:

Borough of Darlington Local Plan 1997

E43 Vacant Upper Floors

Darlington Core Strategy Development Plan Document 2011

CS2 Achieving High Quality Sustainable Design

CS7 The Town Centre

Central Government guidance on conservation areas is contained with the National Planning Policy Framework 2011

RESULTS OF CONSULTATION AND PUBLICITY

No letters of objection have been received following the Council's consultation exercise

Consultee Responses

The Council's Principal Environmental Health Officer (Commercial) has raised no objections to the proposal

The Council's Highways Engineer has raised no objections to the proposal

Darlington Association on Disability has objected to the application on the following grounds:

- *The applicant has chosen a venue that it says is not accessible to anyone who has a mobility problem. Also saying that the members of that club are entirely happy with the proposals. Private clubs of this type are not exempt from equality legislation and just because the old club was upstairs doesn't exempt from their duty of anticipation i.e. to anticipate how disabled people will access services or facilities and rectify any problems before they become a problem for a disabled person. The applicant should have considered this duty when looking for a new venue anticipating that a member could easily acquire mobility impairment at any time. Likewise anyone with a mobility impairment wishing to join.*
- *The applicant appears to be using the planning system as mitigation tool so when a member or someone applying to be a member with mobility impairment is refused access the club can say that DBC planning department Okayed it.*
- *It is 2013 and I am appalled that this attitude towards disabled people is still going on and that a clubs membership is entirely happy to use legal loopholes that exists between planning and equality legislation.*
- *It is not unreasonable in 2013 for a club to be accessible for all. Planning consent should not be given for a venue that the applicant says can't be made accessible for all. Over the years Darlington has allowed more and more of this type of application each one having the same excuse but it can't be allowed to continue if Darlington is to be a town that disabled people can live in equally.*

PLANNING ISSUES

The main issues to be taken into consideration here is whether or not the proposal is acceptable in the following terms;

- Planning Policy
- Disabled Access
- Impact upon the Conservation Area
- Highway Matters

Planning Policy

Policy CS7 of the Core Strategy states that the town centre is the main locational focus for proposed leisure, entertainment and recreational/sport uses. A diversity of such uses including for the evening and night time economy, will be encouraged within the centre, in locations appropriate to their particular characteristics.

Saved Policy E43 of the Local Plan states the Council will encourage owners and occupiers to find appropriate uses for vacant upper floors of commercial properties, in particular those in conservation areas.

Policy CS2 of the Core Strategy states that all development proposals should provide safe, convenient and attractive accesses for disabled people

Disabled Access

The proposed change of use does not involve any provision which would allow wheelchair users to gain access to the first floor.

The applicant considers that there are no easy opportunities to install a lift within the entrance area as such works would result in a substantial remodelling of the building disturbing the Building Society on the ground floor and the offices on the second floor. The applicant does not have any legal basis on which they could force either occupant to close their premises to allow for the installation of the lift. Also, there would be substantial cost implications which they cannot justify.

The building is not open to members of the general public as it is a private members club and the Members are happy with the proposals and consider them to be an improvement upon their current premises on Skinnergate as the stairs are easier and safer to ascend.

Officers have consulted with the Council's Building Control Section and the proposal does not constitute a change of use under Building Regulations. The Building inspectors only remit would be to ensure that the level of disabled access is no more unsatisfactory than prior to the conversion being carried out. Essentially, if the means of access to the first floor was to remain as existing there would be no requirement under the Building Regulations to provide an alternative means of access to the floors above ground floor level.

Officers have considered the comments made by the applicant, the objections made by DAD, the comments from the Building Control Section and also the fact that the Club has to be relocated to facilitate the refurbishment of the Mechanics Institute which is a Grade II listed building on the "Listed Buildings at Risk Register".

The proposed use is one which should be in the town centre in accordance with Policy CS2 of the Core Strategy and the proposal would accord with Saved Policy E43 of the Local Plan.

On balance and having considered all the material planning considerations, Officers consider that it is not reasonable or practicable to request that the first floor of the building is made fully accessible to disabled persons and the planning application should not be refused on such grounds.

Impact upon the Conservation Area

There are no external alterations to the building and therefore the proposal would not have an adverse impact upon the significance of the Town Centre Conservation Area.

Highway Matters

There is adequate town centre parking and secure cycle facilities in close proximity to the premises and therefore no highway objections have been raised

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

The proposal would generally accord with Policy CS7 of the Darlington Core Strategy Development Plan 2011 and Saved Policy E43 of the Borough of Darlington Local Plan 1997 and the Local Planning Authority consider that on balance it is not reasonable to expect the applicant to make the first floor of the building fully accessible. The proposed change of use is considered to be acceptable having taken all material planning considerations into account.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 – Implementation Limit
2. B5 – Detailed Drawings (Accordance with Plan)

The following policies have been taken into consideration:

National Planning Policy Framework 2012

Borough of Darlington Local Plan 1997

E43 Vacant Upper Floors

Darlington Core Strategy Development Plan Document 2011

CS2 Achieving High Quality Sustainable Design

CS7 The Town Centre