

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 28 OCTOBER 2015

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APPLICATION REF. NO:	15/00726/CU
STATUTORY DECISION DATE:	13 October 2015
WARD/PARISH:	HARROWGATE HILL
LOCATION:	Savage Sandwich, 26A Longfield Road
DESCRIPTION:	Change of use from sandwich shop (Use Class A1) to hot food takeaway (A5) incorporating installation of extractor fan and external flue to rear wall
APPLICANT:	MISS TRUDY SPENCE

APPLICATION AND SITE DESCRIPTION

The application property is two-storey, end of terraced property located on the north side of Longfield Road close to its junction with Alwyn Road. It is set back approximately 3 metres from the pavement edge. The existing premises are used as a sandwich shop, with ancillary sales of hot food, with a servery/customer area on the ground floor and a food preparation kitchen and food store areas to the rear. The shop currently opens between the hours of 7.45am until 2.30pm although this is not controlled by planning condition. Access to the premises is from Longfield Road. There is a first floor flat above the premises, with a separate access off Longfield Road, and the applicant lives in the adjoining property to the west, 26 Longfield Road.

Planning permission is sought for the change of use of sandwich shop (Use Class A1) to a hot food takeaway (Use Class A5). The application form states that the premises would be used as a fish and chip shop and would be potentially open between the hours of 1200 to 2000 Monday to Saturday.

There would be no changes to the internal layout of the ground floor although a new kitchen and fryers would be installed within the premises and would include the installation of an extractor fan and external flue on the rear wall of the property. The extractor fan would be fitted at a height of approximately 2.1 metres above ground level with the external flue extending approximately 4.3 metres above the extractor fan, with the overall height of the flue being 6.3 metres above ground level. Refuse storage bins will continue to be located in the rear yard.

The immediate area is predominantly residential in character, although there is a convenience store located approximately 75 metres to the east on the corner of Longfield Road and North Road and a barbers shop approximately 15 metres away to the west at 28 Longfield Road.

PLANNING HISTORY

06/00156/CU – Change of use of shop/flat to a dwellinghouse. GRANTED 30.03.2006

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

Darlington Core Strategy Development Plan Document 2011

CS2 (Achieving High Quality, Sustainable Design)

CS9 (District and Local Centres and Local Shops and Services)

CS16 (Protecting Environmental Resources, Human Health and Safety)

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – Servicing and public access to the premises would be required to take place from the public highway. There is a step into the main access of the customer entrance which would make it difficult for wheelchair users to access the business, however there is a small section of private ground to the front where a ramp could be created as long as this did not extend onto the adopted highway. The property currently operates as a sandwich shop and takeaway therefore a change of use to a fish and chip shop would not significantly change the type of use. Longfield Road is wide and allows vehicle parking on both sides of the highway without restricting the flow of traffic along its length. During daytime opening hours, parking is not so problematic as local residents would most likely be away from home, freeing up on street parking to a certain extent. Therefore raise no highway objection to the proposal.

Environmental Health Officer – Recommends that conditions be attached to any permission granted requiring a scheme for the reduction of noise and vibration from the external plant, including the submission of a noise impact assessment to be submitted for approval, a condition requiring the submission of a scheme to deal with fumes and odours from the premises and an hours of operation condition. [Condition No.3 and No.4]

Darlington Association on Disability – No adverse comments on the basis that the applicant has agreed to provide a disabled access ramp. [Condition No.5]

Durham Constabulary Police Architectural Liaison Officer – Acknowledge the concerns from some neighbours that this change of use may generate anti-social behaviour and create parking problems. The Police believe that although there are occasionally incidents of anti-social behaviour in the Longfield Road area, this proposed change of use will not necessarily increase the risk. Fast food takeaways sometimes attract nuisance but good management practices can mitigate this. The proposed hours of opening should help reduce nuisance to neighbours. The Police have no objection to the change of use.

Five letters of objection have been received which raise the following issues:

- *Change of business is going to increase traffic and foot flow to an already busy corridor which also must accommodate a major bus route, numerous road junctions and an already very heavily burdened level of street parking;*
- *An extension to the opening hours from those that already exist will hugely increase the comings and goings of people to the street directly opposite my property;*
- *Currently the business operates to maximise morning trade and lunchtime trade from the local school. Extending the opening hours of the business will also extend the hours of disruption into the evening;*

- *Whereas currently the business facilitates day time trade and operates in reasonable business hours, this extension will significantly impact the local residents and encourage school children to frequent the surrounding streets for longer periods of time, especially during heavy traffic;*
- *With the change in trade there will be additional packaging and food waste that will undoubtedly increase the levels of litter around the street and roadside;*
- *Levels of noise and anti-social behaviour will be likely to increase both by school children and adolescents during and after school times, into the early evenings;*
- *Concerns over smells and air quality due to heavy frying and greasy food cooking;*
- *The vicinity of the new business in correlation to pre-existing fish and chip shops, currently the local community is already served by three food business that offer the same and additional services, all location within 500metres of the proposed new site;*
- *There is already a problem with parking at this end of Longfield Road. The parking situation has recently been made worse due to the corner shop being turned into a post office. The traffic is heavy on Longfield Road and feel that the increase in hours will only make this situation worse;*
- *The Council has recently painted double yellow lines on the corner of Longfield Road and Alywn Road and also the corner of Longfield Road and Bowman Street. This has only further exacerbated the parking situation. There are further parking restrictions will the bus stop, directly outside Savage Sandwich.*

PLANNING ISSUES

The following issues are relevant to consideration of the application:

- Planning Policy
- Residential Amenity
- Highway Safety
- Disabled Access
- Visual Amenity

Planning Policy

Core Strategy Policy CS9 (District and Local Centres and Local Shops and Services) directs shops, leisure uses and services to meet people's day-to-day needs towards district and local centres. Although the application site is not within a district or local centre, the policy is further supportive of such proposals outside of these areas which meet the day-to-day needs of nearby residents without the needs to use a car. As such, the proposed use in an accessible location, close to residential properties and other such shops and services is considered to be acceptable in principle, subject to consideration of the following issues of development management.

Residential Amenity

Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety) states that new development, including proposals for the change of use of a building) should ensure that there is no detrimental impact on the environment, general amenity and the health and safety of the community.

The surrounding area is predominantly residential although there are some retail units within the vicinity, including a convenience store on the corner of Longfield Road and North Road and a barbers shop on the corner of Longfield Road and Alwyn Road. Hot food takeaways have the potential to cause disturbance to neighbours due to noise generated by the comings and goings of

customers, both on foot and in vehicles, and the operation of equipment to deal with fumes and smells. This can be particularly so at times when neighbours might have a reasonable expectation of a quieter environment.

It is proposed that the hot food takeaway will be open between the hours of 1200 and 2000 Monday to Saturday, which is consistent with other hot food takeaways which have recently been approved within residential areas across the Borough. Furthermore, in allowing an appeal for the change of use of a shop to a hot food takeaway at 15 Belvedere Road (APP/N1350/A1/14/2228133) the Inspector concluded '*I do not consider these hours of operation (1130 – 2100 Monday to Saturday and 1200 – 1900 on Sundays and Bank Holidays) to be at antisocial times, or when residents would reasonably expect a certain degree of peace and quiet*'.

Although the existing sandwich shop, which includes the sale of some hot foods on an ancillary level, is currently open daily between the hours of 0745 and 1430, this is not subject to control by planning condition and in effect the premises could trade beyond these hours, either as a sandwich shop or as any other use falling within Use Class A1 (shops), which could arguably affect the amenities of surrounding residential properties to a greater degree. The applicant is willing to accept a condition limiting the opening hours (1200 and 2000 Monday to Saturday) which in view of recent appeal and planning decisions is considered acceptable within a residential area.

The Council's Principal Environmental Health Officer (Commercial) has no objections to the proposed change of use provided that conditions are attached to any grant of planning permission to secure the hours of operation, control over an effective form of plant and machinery for controlling fumes and odours (also subject to any necessary noise mitigation measures) and the submission of a noise impact assessment to ensure the neighbours and the occupiers of the first floor flat are not unduly disturbed by the ground floor usage.

There is an existing waste bin located on the corner of Longfield Road and Alwyn Road, approximately 15 metres away from the application premises which can continue to be used by patrons of the premises. Existing refuse storage bins for food waste and commercial waste from the premises are stored within the rear yard and will continue to do so.

The Durham Constabulary Architectural Liaison Officer has advised that the proposed change of use will not necessarily increase the risk of anti-social behaviour in the area and raise no objection to the change of use.

It is considered that the proposed opening hours are not antisocial times or when residents would reasonably expect a certain degree of peace and quiet. Furthermore this would introduce a degree of control over opening hours which does not exist at present. Subject to conditions limiting these opening hours, controlling noise, fumes and odours which might be generated by the use, the proposed change of use is not considered to materially harm the amenities of the neighbouring dwellings and is therefore considered to comply with Core Strategy Policy CS16.

Highway Matters

The Council's Highway Engineer has advised that during daytime opening hours, parking will not be particularly problematic as local residents would most likely be away from home, freeing up on street parking to an extent. However the extended opening hours to 2000 hours would mean that customers visiting the take away by car would be forced to park on street and may stop residents parking outside their own home. However as on street parking is not allocated

parking and is free to be used by anyone it would be difficult to recommend refusal on grounds of lack of parking. On this basis, no highway objection is raised.

Disabled Access

Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design) states that all development should provide safe, convenient and attractive access for disabled people. The existing premises have a step into the shop which would make it difficult for disabled people to access the property. There is a forecourt the front of the property where a ramp can be created provided it does not extend onto the adopted highway. The applicant has confirmed that she would be willing to provide an access ramp and Darlington Association on Disability has raised no adverse comment to the application on the basis that this can be provided.

Visual Amenity

No external alterations are proposed to the premises other than the installation of an extractor fan and flue on the rear elevation, enclosed by other properties to the north. In view of the enclosed location of this equipment, it is not considered that this would have an unacceptable impact on the character and appearance of the surrounding area.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

The proposed change of use of the property to a hot food takeaway is considered to be acceptable in this location. Subject to conditions to restrict the hours of opening and controlling noise, fumes and odours which might be generated by the use, the proposed change of use is not considered to materially harm the amenities of the neighbouring dwellings. No highway objection has been raised to the proposal and the applicant is willing to provide appropriate disabled access to the property. The proposal is therefore considered to comply with Policies CS2 (Achieving High Quality, Sustainable Design), CS9 (District and Local Centres and Local Shops and Services) and CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy Development Plan Document.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3 year time limit)
2. The use hereby approved shall not operate outside the hours of 1200 and 2000 Monday to Saturday unless otherwise approved in writing by the Local Planning Authority.

REASON – In the interests of residential amenity.

3. Prior to the commencement of the development, a Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The scope of the assessment shall be agreed with the Local Planning Authority but shall take account of noise from all commercial activities connected with the approved ground floor use,

including the arrival and leaving of customers, and noise and vibration from all fans, louvres, ducts and external plant associated with the hot food takeaway, along with an assessment for the need for any sound insulation between floors and walls of the premises and the neighbouring dwelling and the flat above. The agreed scheme of noise mitigation measures shall be fully implemented prior to the commencement of the use hereby approved and shall be retained and maintained in accordance with the manufacturer's specifications as long as the premises shall continue to operate as a hot food takeaway.

REASON – In the interests of the amenities of the existing residential properties in the surrounding area and the occupants of the first floor flat.

4. Prior to the use hereby permitted commencing, a scheme shall be submitted to and approved in writing by the Local Planning Authority for the effective control of fumes and odours from the premises. The agreed scheme shall be fully implemented prior to the commencement of the use and shall be retained and maintained in accordance with the manufacturer's specifications as long as the premises shall continue to operate as a hot food takeaway.

REASON – In the interests of the amenities of the existing residential properties in the surrounding area and the occupants of the first floor flat.

5. Prior to the use hereby permitted commencing, details of a scheme for the provision of a disabled access ramp to the premises shall be submitted to and approved in writing by the Local Planning Authority. The use shall not commence until the approved details have been implemented in full and shall be retained as long as the premises shall continue to operate as a hot food takeaway.

REASON – To ensure that a disabled person can use the services that are provided within the building in accordance with Policy CS2 (Achieving High Quality, Sustainable Design) of the Darlington Core Strategy Development Plan 2011 and the Equalities Act 2010.

6. B5 (Development in accordance with the approved plans).

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT IN CONSIDERATION OF THE APPLICATION:

Darlington Core Strategy Development Plan Document 2011

CS2 (Achieving High Quality, Sustainable Design)

CS9 (District and Local Centres and Local Shops and Services)

CS16 (Protecting Environmental Resources, Human Health and Safety)