

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 19 November 2008

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APPLICATION REF. NO:	08/00798/CU
STATUTORY DECISION DATE:	25 November 2008
WARD/PARISH:	CENTRAL
LOCATION:	44 Tubwell Row, Darlington
DESCRIPTION:	Change of use to tea room café (A3)
APPLICANT:	Mrs Mandy Marsh

APPLICATION AND SITE DESCRIPTION

The proposal involves the change of use of the premises from a hair salon to a traditional Victorian tea room for the sale of tea and coffee; soft drinks and fresh bakery products to be consumed on the premises. The unit would contain seven tables and seat twenty eight customers. The external appearance of the property would remain unchanged and disabled access is already in place.

The property forms part of a row of commercial properties on the south side of Tubwell Row, within the Town Centre Conservation Area.

It was noted on a recent site visit that work had commenced on the internal alterations for the tea room.

PLANNING HISTORY

None relevant

PLANNING POLICY BACKGROUND

Policy S5 (Town Centre Food and Drink Uses) of the Borough of Darlington Local Plan is relevant along with adopted Supplementary Planning Guidance "Guidelines for the Introduction of A2 and A3 Uses and Amusement Centres into the Secondary Shopping Frontages of Darlington Town Centre"

RESULTS OF CONSULTATION AND PUBLICITY

One letter of objection has been received. The objections can be summarised as below:

- The town centre is adequately served with catering outlets;
- The premises are not necessarily suitable for any type of catering as it is totally blocked off to the rear with no ventilation of any kind nor adequate toilet facilities;
- The town centre needs a better mix of shops especially with the opening of Costa Coffee; Café Nero; Starbucks and the café in the Cornmill opposite.

PLANNING ISSUES

The main issues to be considered here are whether or not the change of use is considered acceptable in the following terms;

- Planning Policy
- Highway Matters
- Impact upon the Character and Visual Appearance of the Conservation Area
- Other Matters

Planning Policy

The property is located within a town centre secondary shopping frontage, as defined in the Borough of Darlington Local Plan. Policy S5 of the Plan is particularly relevant to this proposal, as it would result in the loss by change of use of a ground floor class A1 shop. The policy states that:

"ADDITIONAL A3 USES WILL BE PERMITTED IN THE SECONDARY SHOPPING FRONTAGES PROVIDED THAT THE OVERALL CONCENTRATION OF NON-SHOP USES IN A PARTICULAR LENGTH OF FRONTAGE WOULD NOT BE SUCH AS TO UNDERMINE ITS CHARACTER OR VITALITY AS A SHOPPING FRONTAGE."

The Council has adopted Supplementary Planning Guidance (SPG) to assist in the interpretation of the issue of concentration in secondary frontages (Guidelines for the Introduction of A2 and A3 Uses and Amusement Centres into the Secondary Shopping Frontages of Darlington Town Centre, October 1998).

The SPG states that:

"Where a proposal would result in the proportion of class A1 shop uses in the relevant length of frontage falling or remaining below 60%, then the overall concentration of non-shop uses will be considered to be such as to undermine its character or vitality as a shopping frontage. The proposal will thus conflict with Policies S4, S5 or S19 of the Local Plan and, in the absence of other material considerations, will not be permitted." (para. 2.2)

The relevant length of frontage in this case is the south side of Tubwell Row, east of Church Row. This comprises four units in a frontage totalling 43m. Two of the units are presently in use class A1 (Relate charity shop and the application property, last used as a hairdressers). The other uses are Deno's fish and chip shop (class A5) and the Nag's Head public house (class A4). The class A1 units presently account for 36% of the length of the frontage. A change of use would reduce this to just 23.3%, well below the lowest acceptable threshold of 60% referred to in the SPG.

Moreover, as the application property is located between the fish and chip shop and the Nag's Head the proposal would result in the siting next to one another of three non-A1 uses and a

continuous non-A1 frontage of 33m. This would constitute a significant break in the class A1 shopping frontage that would in itself be contrary to the guidance of the SPG.

The proposal is therefore contrary to the provisions of the development plan and in the absence of any other material considerations should be refused. In this instance, however, it can be argued with some justification that this part of Tubwell Row no longer functions as a true shopping frontage. With only 36% of the frontage length in use class A1 the level of shopping activity is already well below that necessary to support a viable and lively shopping frontage and it would be difficult to sustain a case that a further reduction would 'undermine its shopping character or vitality'. The application unit is also of very modest size (about 45sqm gross floorspace), not one of those (of around 300sqm) considered to be in short supply in the town centre. Moreover, this part of Tubwell Row is on the periphery of the defined centre, cut off from the main shopping frontages including the Cornmill to the north by the broad width of Tubwell Row. The loss of the shop unit and the diminution of class A1 activity are therefore unlikely to have negative impacts on the shopping function of the town centre as a whole. Officers consequently recommend that in the circumstances the planning application be permitted.

If this recommendation is accepted then it would amount to an acceptance by the Council that this particular section of Tubwell Row (and, for the avoidance of doubt, only this section) is incorrectly defined as a secondary shopping frontage.

Highway Matters

No highway objections have been raised.

Impact Upon the Conservation Area.

The change of use does not involve any alterations to the shop front and therefore the proposal would not have an adverse impact on the Town Centre Conservation Area.

Other Matters

The objector has raised an issue relating to whether or not the premises are suitable for an A3 use. The Council's Environmental Health Officer has raised no objections to the proposed use and recommends approval subject to the imposition of conditions relating to refuse collection and ventilation equipment.

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 is contrary to the provisions of the development plan and in the absence of any other material considerations should be refused. However, it can be argued with some justification that this part of Tubwell Row no longer functions as a true shopping frontage. The loss of the shop unit and the diminution of class A1 activity in this section of Tubwell Row are therefore unlikely to have negative impacts on the shopping function of the town centre as a whole. Policy S5 (Town Centre Food and Drink Uses) of the Borough of Darlington Local Plan

and the adopted Supplementary Planning Guidance “Guidelines for the Introduction of A2 and A3 Uses and Amusement Centres into the Secondary Shopping Frontages of Darlington Town Centre” were taken into consideration when determining this application.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

- A3 - Implementation (3 Years)
- D4 - Refuse Storage (Details to be Submitted)
- D19 – Ventilation Equipment (Details Required)
- B5 – Detailed Application (Implementation in Accordance with Approved Plans)

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The proposal is contrary to the provisions of the development plan and in the absence of any other material considerations should be refused. However, it can be argued with some justification that this part of Tubwell Row no longer functions as a true shopping frontage. The loss of the shop unit and the diminution of class A1 activity in this section of Tubwell Row are therefore unlikely to have negative impacts on the shopping function of the town centre as a whole. Policy S5 (Town Centre Food and Drink Uses) of the Borough of Darlington Local Plan and the adopted Supplementary Planning Guidance “Guidelines for the Introduction of A2 and A3 Uses and Amusement Centres into the Secondary Shopping Frontages of Darlington Town Centre” were taken into consideration when determining this application.