

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 6 February 2008

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APPLICATION REF. NO:	07/01144/CU
STATUTORY DECISION DATE:	14 January 2008
WARD/PARISH:	PARK EAST
LOCATION:	114 Victoria Road, Darlington, DL1 5JW
DESCRIPTION:	Change of use to hot food takeaway including installation of a new shopfront (additional plans received 20 December 2007 and amended description)
APPLICANT:	MOHAMMED ABDUL QUAYYUM AND MRS RAHENA KHALIQUE

APPLICATION AND SITE DESCRIPTION

The application site is a shop situated on the south side of Victoria Road within a mixed-use commercial and residential area, with a residential flat above. The ground floor was last used as a 24-hour automated shop. To the west is a grocers shop and to the east is a residential property.

Planning permission is sought for the change of use of the existing ground floor shop to a hot food takeaway. A previous owner without the benefit of planning permission has recently installed a new shop front and this has now been included within the submission in order to regularise that part of the development.

PLANNING HISTORY

00/00021/CU – In February 2000 planning permission was granted for the change of use from a launderette to a hot food takeaway.

PLANNING POLICY BACKGROUND

The following policies in the Borough of Darlington Local Plan are relevant:

- S18 – Food and Drink Uses Outside the Town Centre
- H15 – The Amenity of Residential Areas
- T26 – Town Centre Fringe Parking
- T24 – Parking and Servicing Requirements for New Development

RESULTS OF CONSULTATION AND PUBLICITY

Two letters of objection from nearby residents have been received raising the following concerns:-

- *There is no parking available outside of the shop and customers will park on the bus stop all of the time;*
- *There are already too many takeaways and it will be too much to have another one in this three hundred metre section of the road;*
- *I would like to know if the applicant is going to live in the property next to mine and at what time of the night or morning it will be open till as a takeaway at the other side of me does not shut until 12.30-1.30 am and the shouting and banging is bad enough already;*
- *The rubbish; pizza, kebab boxes and fish and chip wrappers and broken glass from the pubs must be a health hazard – ask your street cleaners what it is like mainly at weekends;*

The Highways Officer has been consulted and has raised no objections to the proposed development.

The Council's Environmental Health Officer has been consulted and has raised no objections to the proposed development.

PLANNING ISSUES

The main issues to be considered are:

- Planning Policy
- Residential Amenity
- Visual Amenity
- Highway Matters

Planning Policy

Policy S18 (Food and Drink Uses Outside the Town Centre) of the Borough of Darlington Local Plan states that takeaway uses will be permitted inter alia within small groups of established shops, and in association with other retail, employment or leisure / recreation development on sites which are easily accessible by foot, cycle and public transport, provided that there will be no adverse effect on residential amenities or highway safety. Subject to these criteria being satisfied, there is no policy objection to the proposal.

Residential Amenity

The application property is situated in an area that has a number of commercial properties with daytime and evening uses. The block in which the unit is situated is predominantly occupied by ground floor commercial properties with flats above. However, this is interspersed with a small number of ground floor residential properties, the nearest being immediately to the east, No. 116 Victoria Road. It is acknowledged that there is a preponderance of such uses in the general locality, however the previous use was a 24-hour shop and subject to appropriate planning conditions to control, refuse storage and emission of fumes and odours from the premises, it is considered that its externalities can be satisfactorily controlled.

Although hours of operation is an issue that can affect the impact on local amenity, the occupier is required to apply for a license under the Licensing Act 2003 should they wish to sell hot food

after 11 pm. This has its own process, and involves consultation with the Council's Environmental Health Officer to assess the implications of late night sales, such as potential nuisance created by late night deliveries. Therefore it is considered that hours of opening can be satisfactorily dealt with under this other legislation.

Sound insulation between floors is usually dealt with under the Building Regulations, however in this instance, the involvement of Building Regulations would be reduced to the fitting out works to the shop itself. In the absence of any enforceable control under other regulations, it is recommended that a condition requiring details of measures to protect the occupants of the flat and attached property from noise be attached to any approval.

The objection received refers to noise already present in the area, however given the location of this particular unit, and the proposed use, it is not considered that the proposal would significantly exacerbate any current levels of noise in the vicinity. Rather, it is likely that the sounds of any additional evening visitors to the new establishment would be subsumed into existing levels from any visitors to existing food establishments.

Another matter raised by objection is the generation of litter, which is already considered to be a local problem. It has been held in the courts that the dropping of litter is a material planning consideration where it is directly attributable to a proposed use. Nevertheless, the proposed business is one that involves the sale of a takeaway and delivery service, which consists of the type of heavy food that is wrapped and eaten at home. Whilst the takeaway use itself cannot control the type of food sold without planning condition, there is considered to be no evidence to suggest that the proposed use would generate a demonstrable increase in litter.

Visual Amenity

A new shop front has been installed which consists of a timber frame with the existing fascia. There are a number of similar style shop fronts in the immediate locality and it is not considered that the alterations raise any significant issues in respect of its impact on the visual amenities of the area.

Highway Matters

The Highways Officer has been consulted and has raised no objections to the proposed development.

Other Matters

The applicant has not submitted any specific details of the proposed internal layout, which will be subject to a separate Building Control submission, which will also be required to incorporate issues relating to disabled access.

CONCLUSION

The proposal is considered to comply with the relevant policies contained within the Borough of Darlington Local Plan and there are considered to be no material planning considerations that would suggest an alternative recommendation. No objections have been raised by consultees, who are satisfied that the effects of such a development can be satisfactorily dealt with by planning conditions.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:-

- 1) A3 Implementation Limit (Three Years)
- 2) B5 Detailed Drawings (Accordance with Plan)
- 3) No development shall commence until a scheme of soundproofing for insulating the first floor flat and the neighbouring property (No. 116 Victoria Road) against the transmission of airborne and impact sound, has been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.

REASON – To ensure satisfactory environmental conditions for the occupiers of the first floor flat.

- 4) D18 Control of Fumes
- 5) D19 Ventilation Equipment (Details Required)
- 6) Prior to the use of the ventilation equipment included in condition 5 (above) the applicant is required to test the equipment for noise in the presence of the Local Planning Authority.

REASON – In the interests of residential amenity.

- 7) D4 Refuse Storage (Details to be Submitted)

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The proposed change of use is considered to be acceptable in this location by virtue of the fact that it would not have an adverse impact on the character or amenity of the area. The proposal does not raise any issues in respect of highway safety or crime prevention. The proposal is considered to comply with the relevant policies in the development plan set out below:

Borough of Darlington Local Plan (1997)

S18 – Food and Drink Uses Outside the Town Centre

H15 – The Amenity of Residential Areas

T26 – Town Centre Fringe Parking

T24 – Parking and Servicing Requirements for New Development