

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 27th August 2014

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APPLICATION REF. NO:	14/00563/CU
STATUTORY DECISION DATE:	18/08/14
WARD/PARISH:	Park East
LOCATION:	15 Belvedere Road Darlington
DESCRIPTION:	Change of use of shop to A5 Hot Food Take Away use and alterations to shop front and rear of property (odour filters)
APPLICANT:	Mr J Singh

APPLICATION AND SITE DESCRIPTION

This is a “corner shop” in a residential area of terraced houses near to the Bank Top Railway Station with alley ways to the rear . Any private garden areas are restricted to small yards which back onto the alley ways.

Car parking is on street only and terraces abut the road. It is mainly residential property in this locality but Victoria Road is quite close by which includes numerous shops, pubs and Take Aways.

The shop is currently boarded up and closed. It is proposed to change the use to a hot food take away shop.

PLANNING HISTORY

14/00300/CU – Change of use of shop to Take Away – **Refused** under delegated powers May 2014.

PLANNING POLICY BACKGROUND

Darlington Core Strategy Policy CS16 – Protecting Environmental Resources, Human Health and Safety.

NPPF – Promoting Healthy Communities.

RESULTS OF CONSULTATION AND PUBLICITY

A site notice was posted and local residents were consulted.

There have been approximately 71 letters/emails of objection to the proposal and some 27 letters/emails in support – although some of these appear not to be genuine as the sender's email addresses are not valid.

Issues raised by the objectors include :

- Noise and disturbance from late night customers and cars etc
- Noise and smells from flue pipe in rear yard area
- Car parking of customers will impose on local residents.
- Already many fast food shops nearby in Victoria Road.
- Increased litter and similar problems.
- Increased anti-social behaviour.
- Council should buy property and let it out.

Comments made by supporters include:

- Shop has boarded up long enough and should be opened
- Ten minute walk to other take aways in Victoria Street
- Thai food will be welcome here.
- No reason why there should be anti-social behaviour because of a take away
- Shop is an eyesore at present and attracts vandals.

Highways Engineer comments:

The property occupies an end terrace location and benefits from a long gable adjacent to Leafield Road which would accommodate approx. 3no vehicles plus space to the front of the property for additional vehicle parking for customers to use in connection with the Takeaway business.

Servicing and public access/parking of the premises would be required to take place from the public highway, however the highway impact to residents should be minimal especially as this would potentially serve a large walking catchment area of customers.

There is a step into the main access of the customer entrance which would make it difficult for wheelchair users to access the business. There is a small section of private land to the front of the shop belonging to the property which could be raised to form a ramp with further works carried out internally to lower the floor of the customer serving area which may remedy the access issue, however this will require further review. A ramp extending onto adopted highway would not be permitted however.

No highway objection to the proposals, subject to the disabled access to the premises being resolved.

Environmental Health Officer – No objections in principle – there are other similar shops in similar locations which do not give rise to complaints. Any permission would need to be subject to a number of conditions relating to noise, smells, waste and internal arrangements.

DAD – Note that there is a small entrance step currently preventing smooth access for wheelchair users .

PLANNING ISSUES

The main planning issues relating to this application are those affecting the amenities of local residents. The alterations to the shop front are considered acceptable.

Hot food takeaways are desirable to many people but not if they are located close to their house or garden for a variety of reasons. In this instance a number of objections have been raised by local residents, and whilst each issue alone may not be sufficient cause to refuse planning permission, their combined impacts can lead to unacceptable harm to the amenities of the residents.

In this instance the Highways Officer has not objected to the proposal because there are plenty of on street car parking spaces available nearby, however it is this availability that causes concern to nearby residents who object to potential regular car movements and doors closing etc from customers visiting the shop.

Similarly whilst the Environmental Health Officer has not objected to the proposal, local residents are concerned that fumes and noise from the extractor flue, whilst not perhaps constituting a statutory nuisance, nevertheless will be a source of annoyance particularly in the summer months when garden areas are more likely to be used and windows open at night.

Other issues such as people congregating outside or near to the shop have been raised, and whilst this is not something that is necessarily going to be a problem, evidence suggests that it may happen from time to time, and whilst not an issue in other areas such as shopping precincts, residential areas such as the application site are more sensitive to such activities.

The application has received support from a number of residents, some of which live some distance from the site. Whilst it is appreciated that some of the public support the option of using a take away facility, a balance has to be considered with residents who live close to the site on a permanent basis.

In addition the appearance of the property at present does not positively contribute to the character of the locality and this has to be taken into account when assessing the proposals.

The applicant has submitted supporting information which is summarised as follows :

- Property has been empty for 15 years and is an eyesore
- Shops and take aways in residential streets are not unusual
- Nearest take aways are 10 minutes walk away
- Chip shop recently granted permission nearby
- No reason why problems cited by objectors should occur

Officers are aware of the recent approval nearby for a fish and chip shop, however this had restricted opening hours and only three people objected to the application . Over 70 have objected to the current proposal and their legitimate concerns must be taken into account when considering the merits of the proposal.

There is a balancing act to carry out when considering proposals for hot food take aways in residential areas, the concerns of local residents are a material consideration as are the comments of supporting residents, however there have been no material changes to the proposals since the earlier refusal of planning permission so overall therefore it is considered that the proposed hot food takeaway will cause unacceptable harm to the amenities of local residents and should not be granted planning permission.

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.

RECOMMENDATION

That permission be refused for the following reasons:

1. The proposed development by virtue of its close proximity to residential dwellings will be likely to result in the generation of noise, disturbance and nuisance detrimental to the amenities of local residents. In particular the proposed development will generate some odours and noise from any odour neutralising equipment installed, which will be likely to cause nuisance to local residents. In addition the nature of the use will generate noise and disturbance from visiting members of the public, possibly late at night, which will be detrimental to the amenities of local residents.

In view of the above it is considered that the proposed development will be contrary to paragraphs 17 and 123 of the National Planning Policy Framework and Policy CS16 of the Darlington Local Development Core Strategy.