

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 2 November 2011

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APPLICATION REF. NO:	11/00400/FUL
STATUTORY DECISION DATE:	6 October 2011
WARD/PARISH:	HARROWGATE HILL
LOCATION:	2 And 4 Burtree Lane, Darlington DL3 0XQ
DESCRIPTION:	Conversion of first floor to form 4 No apartments, erection of two storey extension to rear and change of use of ground floor from residential to convenience store (Use Class A1) (Amended Plans Received 30 September 2011)
APPLICANT:	Mr Jay Patel

APPLICATION AND SITE DESCRIPTION

Planning permission is sought for the conversion of the first floor to form four apartments with the erection of a two storey extension to the rear and for the change of use of the ground floor from residential to convenience store (Use Class A1).

The rear extension would project some 2.2m from the rearmost building line of the existing properties. The rear extension would feature two external staircases to provide access to the first floor flats. The flats that are proposed would all be one bedroom dwellings. The flats are proposed as being used as part of the neighbouring Harrowgate Hill Lodge as self-contained visitor accommodation.

The application site consists of two distinct buildings which have the appearance of a small terraced block rather than as semi detached properties.

The site is located to the west of Harrowgate Hill Lodge with its car park to the rear and sides. Princess Road is located opposite the site (across Burtree Lane) and the nearest houses have their side elevations facing the site.

The proposal was amended to include a stud-partition wall in the shop to reduce the size of the sales area to 100m².

PLANNING HISTORY

There is no planning history relevant to this application.

PLANNING POLICY BACKGROUND

The following policies of Borough of Darlington Local Plan 1997 are relevant:

- E2 – Development Limits
- H15 – The Amenity of Residential Areas.

The following policies of the Darlington Core Strategy Development Plan Document 2011 are relevant:

- CS2 – Achieving High Quality, Sustainable Design
- CS9 – District and Local Centres and Local Shops and Services

RESULTS OF CONSULTATION AND PUBLICITY

Letters were sent to neighbouring properties advising of the proposal and a site notice was displayed.

Five letters have been received from and points raised are summarised below:

- *There are concerns about the hours that the convenience store will be open, the possible sale of alcohol and with regard to anti-social behaviour that it might attract.*
- *The proposal will result in issues of noise and disturbance to local residents.*
- *There are existing stores in the area already which are open late.*
- *It was identified when the Tesco store was denied planning permission that Harrowgate Hill has no more retail capacity and that the current shop provision serves the community well.*
- *Burtree Lane is already a busy road and the proposal would make this situation worse and more dangerous.*
- *The parking spaces are used by the hotel and will often not be available, leaving people parking dangerously on Burtree Lane.*
- *Parking restrictions on Burtree Lane would not be sufficient as they would be flouted.*
- *Comments have been received questioning the calibre of future residents of the proposed flats.*

Whessoe Parish Council objected to the application and raised the following points:

- *The Burtree Lane area where this proposed development is a residential area and is not a shopping area.*
- *Burtree Lane is a dangerous road and is heavily used by cars, buses and HGVs. The Parish Council is concerned about the safety of pedestrians if this development is approved.*
- *Lorry drivers using the proposed convenience store will not park in the Harrowgate Hill Lodge Car Park but will park in Burtree Lane which will be very dangerous for pedestrians and will cut down visibility for other road users.*
- *It is not clear where the apartment users will park their cars. If it is in the Harrowgate Hill Lodge Car Park this will result in some customers and people staying at the Harrowgate Hill Lodge having to park their cars in Burtree Lane.*
- *Nuisance, noise, litter and anti social behaviour will be attracted to the area by the proposed convenience store.*

- *The proposed convenience store will dilute trade from other shops. The community opposed the application for a Tesco convenience store on North Road which was refused planning permission. An application for a convenience store in the green opposite Newlyn Drive, Harrowgate Farm to serve the Harrowgate Farm community was opposed by residents in 1991/92. There is no requirement for a shop to serve Harrowgate Farm. Nothing has changed.*
- *There are plenty of shops in the area which serve the community.*
- *The community fear that if the application is approved the applicant will subsequently apply for the convenience store premises and business hours to be extended and apply for a licence to sell alcohol.*
- *Residents are particularly concerned about any increase in the hours of business of a proposed convenience store which will have a major impact in a residential area.*
- *The Parish Council would prefer that the proposed residential properties were sold and made cost affordable to first time buyers rather than being let.*
- *The Parish Council has facilitated a petition of residents to oppose this application.*

The **Highways Engineer** raised no objections to the proposal but commented that conditions would be required regarding loading restrictions, a pedestrian crossing, parking provision including the layout of the car park, details of secure cycle parking and in relation to widening the footway to the front of the site.

The **Environmental Health Officer** raised no objections to the proposal but required conditions regarding sound attenuation and external lighting.

PLANNING ISSUES

The site is located within the Development Limits as set out in the Borough of Darlington Local Plan. Policy E2 (Development Limits) of the Local Plan sets out that most new development will be located inside the development limits. The type of development proposed is acceptable in principle depending on other considerations.

Policy CS6 (Vibrant Cultural and Tourism Offer) of the Darlington Core Strategy Development Plan Document specifies that a range of visitor accommodation, will be encouraged in appropriate locations, easily accessible by a choice of means of sustainable transport. The proposed flats could be used as dwellings or as visitor accommodation (connected to Harrowgate Hill Lodge) without a change of use application being required. As the site is located within the Development Limits, residential development is acceptable in principal. The site is accessible by public transport and in this regard is a sustainable location.

CS9 (District and Local Centres and Local Shops and Services) of the Adopted Core Strategy DPD permits new shops to meet the day-to-day needs of nearby residents without the need to use a car, up to 100m² gross floorspace, unless a qualitative need to remedy a geographical deficiency in the distribution of food shopping can be demonstrated. In this particular instance, the gross floorspace is above 100m². However, given the relative lack of food shops in that particular locality, and the size of the shop proposed, it is unlikely that it would impact significantly on existing centres. Subject to a planning condition restricting the net floorspace to that shown on the plans, it is not considered that an objection on policy grounds would be justified.

The proposal has been amended to reduce the size of the sales area to 100m² however the gross floorspace (including the store and WC facilities) would be in the region of 135m²

A condition restricting the net size of the sales area to 100m² would be appropriate. With such a condition, the proposal would be of an appropriate size to meet the day-to-day needs of nearby residents without being of such a size that it would generate significant patronage from further afield. The proposal, therefore, complies with Policy CS9 of the Core Strategy.

Objectors have referred to previous planning permissions for convenience stores including a proposal at the site of the North Road Service Station (which has since been developed for housing). This application was refused planning permission on 14 December 2007 (Ref: 07/00963/FUL). The reason for refusal related to a failure to demonstrate a need for the proposed gross floorspace of some 350m² in this out-of-centre location. The refusal also related to issues around residential amenity. Whilst the decision of this previous application for a larger convenience store in a different location is noted, the current proposal must be considered on its own merits. Issues of viability or competition from other convenience stores could not be used as a reason for refusing planning permission. Any licensing issues with regard to the sale of alcohol would not be a planning matter.

Policy CS2 (Achieving High Quality, Sustainable Design) of the Darlington LDF Core Strategy states that high quality, safe, sustainable and inclusive design will be promoted in all new development. The proposal would convert an existing building with an extension to the rear. The site is well spaced from neighbouring residential properties and the proposal would not result in any significant detrimental impacts in terms of light and outlook.

Policy H15 (The Amenity of Residential Areas) of the Borough of Darlington Local Plan states that permission will not be granted for the establishment, enlargement or material intensification of non-residential uses which would unacceptably conflict with the amenities of surrounding areas having a predominantly residential character or with the quiet enjoyment of dwellings and gardens in particular.

The side elevations of the nearest neighbouring properties (1 and 2 Princess Road) are some 19m from the front elevation of the application property. The use of the property as a convenience store would have a potential to result in increased issues of noise and disturbances as compared to a residential use. However the use of the ground floor as a shop at this scale would not result in such significant detrimental impacts as to necessitate the refusal of the application. Convenience stores are often found within or adjacent to largely residential areas. A condition restricting the hours of operation (7.30 a.m. and 10.00 p.m. Monday to Saturday and between 7.30 a.m. and 9.00 p.m. on Sundays) would be appropriate to protect the amenities of occupiers of neighbouring properties.

The Highways Engineer has identified that off site highways works will be required in order to make the proposal acceptable. These works include loading restrictions and improving conditions for pedestrians. Conditions are required regarding these matters which would have to be agreed before the development can take place. Conditions are also required for details of the car parking arrangements to be agreed but it is accepted that there is scope within the existing car park to meet the needs of the proposal.

These conditions are set out below and would prevent the use of the development until the necessary works have been completed. These works would also be the subject of a Sec.38/278 Agreement under the Highways Act 1980.

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 site is located within the development limits and residential use is acceptable in principle. The development of a shop would also be acceptable in principle subject to a condition restricting the size of the sales area to 100m². The proposal would not be harmful to the visual amenity of the area and would not result in significant issues in terms of noise and disturbance to the extent that the application should be refused. The proposal would not be harmful to highway safety provided that parking restrictions and a pedestrian crossing are provided. Conditions are needed in connection with these highways matters.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 - Implementation Limit (Three Years)
2. B4 (Sample of Materials)
3. B5 Detailed Drawings (Accordance with Plan)
4. The convenience store hereby approved shall only be open between the hours of 7.30 a.m. and 10.00 p.m. Monday to Saturday and between 7.30 a.m. and 9.00 p.m. on Sundays.

Reason - In the interests of the amenities of occupiers of neighbouring residential properties.

5. Before first occupation of the premises, a Noise Impact Assessment report should be submitted to and agreed in writing with the Local Planning Authority. This report must consider the noise associated with all plant and machinery, the impact of the commercial use on the residential aspect of the development and the impact of road traffic noise on the residential aspect of the development. Thereafter the development shall only be implemented and the premises occupied in accordance with the approved details of the Noise Impact Assessment.

Reason - In the interests of the amenities of future occupiers of the proposed residential accommodation.

6. The Noise Rating Level from all plant and machinery associated with the development combined shall be at least 5 dB (A) below the background noise level at any surrounding residential property, when measured in accordance with BS 4142:1997. The background noise level is to be measured by the applicant or their representative and agreed with the Local Planning Authority.

Reason - In the interests of the amenities of residential properties in the area.

7. Prior to the commencement of the development hereby permitted, a scheme for sound insulation between the commercial and residential elements shall be submitted to and approved by the Local Planning Authority, in writing and any works which form part of such a scheme shall be completed prior to any part of the development being first occupied or used.

Reason – To ensure satisfactory environmental conditions for the occupiers of the proposed residential accommodation.

8. No development shall commence until details of the proposed lighting scheme have been submitted to and approved by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved details.

Reason – To ensure satisfactory environmental conditions for the occupiers of the proposed residential accommodation.

9. No development shall commence until details of ‘no waiting’ and ‘no loading’ restrictions on the north side of Burtree Lane have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

10. No development shall commence until details of a guard rail on the north side of Burtree Lane to ensure that pedestrians are not encouraged to cross at or near to the junction with Princess Road have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

11. No development shall commence until details of a central refuge (including dropped crossings and tactile paving) or a light controlled crossing at a suitable location on Burtree Lane to provide safe crossing point for pedestrians have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

12. Notwithstanding the submitted plans, no development shall commence until details of alterations to the access to the car park to ensure that it can accommodate the size of vehicle likely to deliver to the convenience store have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

13. Notwithstanding the submitted plans, no development shall commence until details of the car park layout to be amended to allow for service vehicles to manoeuvre freely within the car park have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

14. Notwithstanding the submitted plans, no development shall commence until details of two disabled vehicular parking spaces (marked out accordingly) within the car park close to the access to the convenience store have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

15. Notwithstanding the submitted plans no development shall commence until details of ten vehicular parking spaces within the car park that are for exclusive use of the customers and eight vehicular parking spaces for the residential use have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

16. No development shall commence until details of secure covered cycle parking for the residential use (1 space per dwelling) and the convenience store use (two spaces) have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of making adequate provision for cycle use, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

17. No development shall commence until details of the widening of the footway to 2.5m over the whole length of the frontage have been submitted to and approved in writing by

the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

18. Notwithstanding the submitted plans no development shall commence until details of 2m wide footpaths to the side of the convenience store to provide pedestrian access to the residential units have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be occupied until these works have been implemented in accordance with the approved details.

Reason - In the interests of highway safety, in accordance with Policy CS2 of the Darlington Core Strategy Development Plan Document 2011.

19. The sales area of the convenience store (Use Class A1 – Shop) hereby approved shall be limited to 100m² and shall not be increased unless otherwise agreed in writing with the Local Planning Authority.

Reason: to restrict the size of the shop so that it functions primarily to serve the day-to-day needs of nearby residents, in accordance with Policy CS9 of the Darlington Core Strategy Development Plan Document 2011.

Suggested summary of reasons for granting planning permission

It is considered that the proposed conversion of the first floor to form four apartments, erection of two storey extension to the rear and change of use of the ground floor from residential to convenience store (Use Class A1) will not cause significant harm to the character and appearance of the host property or the surrounding area. The proposal will not cause significant harm to the amenities of occupiers of neighbouring residential properties. The proposal is considered to comply with the relevant policies in the development plan set out below:

Borough of Darlington Local Plan 1997:

- E2 – Development Limits
- H15 – The Amenity of Residential Areas.

Darlington Core Strategy Development Plan Document 2011:

- CS2 – Achieving High Quality, Sustainable Design
- CS9 – District and Local Centres and Local Shops and Services

INFORMATIVES:

- *The applicant is advised that contact must be made with the Assistant Director: Highways, Design and Projects (contact Ms.P.Goodwill 01325 288760) to discuss naming and numbering of the development.*
- *The applicant is advised that engineering works will be the subject of a Sec.38/278 Agreement (Highways Act 1980) and contact must be made with the Assistant Director;*

Highways, Design and Projects (contact Mr.S.Brannan 01325 3887550 to discuss this matter

- *The applicant is advised that contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs.B.Bowles 01325 288774) to discuss the introduction of no waiting/no loading restrictions on Burtree Lane.*