

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 23 October 2013

Page 15

APPLICATION REF. NO: 13/00677/FUL

STATUTORY DECISION DATE: 24 November 2013

WARD/PARISH: COCKERTON WEST

LOCATION: Robineau Patisserie, 27 West Auckland Road,
Darlington

DESCRIPTION: Variation of Condition 3 attached to planning permission 11/00211/FUL dated 19 May 2011 (for change of use from bakery shop (A1) to shop and cafe (A1/A3); erection of single and two storey rear extensions, and shop front alterations) to permit a variation of the hours of opening

APPLICANT: Mrs Jane Robineau

APPLICATION AND SITE DESCRIPTION

The application site is within a terrace of commercial and retail units on the west side of West Auckland Road. In May 2011 planning permission was granted for the change of use of the premises from a bakery shop to a shop/café use along with the erection of extensions to the rear and a new shop front.

The permission was granted subject to a condition which was imposed at the request of the Council's Highways Officer and states:

The proposed use hereby approved shall not operate outside of the hours 0900 – 1800 Monday to Saturday and not at any time on Sundays

REASON - In order to ensure that the proposed use does not lead to the parking of vehicles on the surrounding roads, which would interrupt the free flow of traffic and prejudice the safety of other road users.

The applicant has previously operated outside the approved opening times with a restaurant night being held at the premises one evening a month although this has since ceased awaiting the outcome of this planning application.

This application seeks to vary the operating times of the premises to:

Monday 09:00 – 18:00

Tuesday	09:00 – 18:00
Wednesday	09:00 – 18:00
Thursday	09:00 – 24:00
Friday	09:00 – 24:00
Saturday	09:00 – 24:00
Sunday	09:00 – 18:00

The applicant has also requested that the premises are permitted to open later than the above on the following seasonal occasions:

Valentines Day	09:00 – 24:00
Mothering Sunday	09:00 – 23:00
New Years Eve	09:00 – 01:30

These variations to the previously approved opening times would enable the applicant to continue and expand the restaurant nights on a Thursday, Friday and/or Saturday.

A lane off West Auckland Road gives rear access to the commercial properties and their yard areas. A section of the lane also runs to the rear of a row of dwellings on Prior Street, to the north of the application site, before opening back onto West Auckland Road. This lane is a public highway.

PLANNING HISTORY

11/00211/FUL In May 2011 planning permission was GRANTED for change of use from bakery shop (A1) to shop and cafe (A1/A3); erection of single and two storey rear extensions, and shop front alterations

11/00569/FUL In October 2011 planning permission was GRANTED to vary condition 6) 6 (accordance with plans) of planning permission 11/00211/FUL dated 19 May 2011 (for change of use from bakery shop (A1) to shop and cafe (A1/A3); erection of single and two storey rear extensions, and shop front alterations) to permit revisions to rear extensions

11/00211/CON In April 2012 an application to discharge conditions 2 (external materials), 4 (noise emissions) and 5 (control of fumes and odours) attached to planning permission 11/00211/FU was APPROVED

PLANNING POLICY BACKGROUND

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy Development Plan Document 2011 is relevant

RESULTS OF CONSULTATION AND PUBLICITY

Eight letters of objection have been received from occupiers of properties on Prior Street following the Council's consultation exercise. Seven of the responses are standard letters signed by the occupant. The concerns can be summarised as follows;

- *Staff parking on Prior Street before 7am each morning including Saturday and generating noise that includes engines revving, whilst attempting to park, doors*

slamming and talking in the street. This then continues at the rear of the properties as they walk to the back of the café

- *There are delivery vehicles, many before 7am, and due to the difficulty of the 90 degree turn to access behind Prior Street they have to reverse and move backwards and forwards. These vehicles cause noise by revving the engines, beepers to confirm that they are in reverse, some are refrigerated and have compressors and it is noisy.*
- *Up to 4 to 5 cars are parked daily by the café staff in Prior Street as well as vehicles from other businesses and the staff from the local schools. Parking and congestion starts before 8am each morning and again after 3pm as parents bring their children to and from school. Residents in West Auckland Road also attempt to park their cars in the Street as they have little choice due to the parking restrictions in place and shoppers try and park here as well. Even on a Sunday there are parking issues as church goes no longer park in the school playground. All of this adds to the noise problem and we are unable to park our own vehicles close to our homes. The issue of car parking in Prior Street is at breaking point and parking activity is dangerous and it's only a matter of time before an accident occurs.*
- *The lane some days is like the M1 with Robineaus trading later this will again generate nuisance, noise and pollution which residents and the wildlife don't want*
- *I object to the stale smell of food that lingers at the back of the property and this is worse on some days dependent on the wind direction and I don't want to smell this at night or hear the compressors on the roof.*
- *The lane used to be alive with wild life and we used to have a family of bats, hedgehogs and field mice but sadly due to the increase in traffic and interventions from humans, noise, danger, litter and filth, spotting these creatures is sadly getting rarer*
- *The lane is in very poor condition with the amount of traffic and wear and tear that it is enduring. The vans delivering to Robineaus are too big for the access, there are many vehicles using the lane and access to people's property is being blocked and the surface is that bad and generates dust we are unable to open our windows.*
- *Workers use the rear entrance to come and go to work and I don't want noise and to be inconvenienced late on nights at the rear of my home. In fairness for safety reasons any decent employer would allow his teams of people safe access to their place of work through the front door, which is clearly illuminated and safe*
- *The café has not shown any duty of care to the local residence and they have abused the permission given to them by illegally trading for the last 12 months by holding functions on their premises when it is quite clearly stated in the planning permission that they are not allowed to do so*
- *I also object to their customers hanging around the streets smoking and causing a nuisance talking and smoking, other licensed venues have to provide adequate facilities for this purpose*
- *My concern is that they have applied to do something, which the Council has granted and then been abused and, then again they apply for something else and a simple bakery then becomes a fully licensed venue or wine bar and brings more problems to the area*

Consultee Responses

The Council's Principal Environmental Health Officer (Commercial) has raised no objections to the proposal

The Council's Highways Engineer has raised no objections to the proposal

PLANNING ISSUES

The reason for this application is that the applicant is seeking a relaxation of the condition which controls the opening times of the establishment. It is open to the Local Planning Authority in considering this to also consider whether it would wish to add or alter any further conditions.

The main issues to be taken into consideration are whether or not the proposal is acceptable in the following terms:

- Planning Policy
- Parking
- Deliveries
- Residential Amenity

Planning Policy

Policy CS16 of the Core Strategy states that development should protect the general amenity and the health and safety of the community.

Parking

During the determination of planning application reference number 11/00211/FUL, the Council's Highways Officer considered that as the café use was a daytime use only it was unlikely that the parking requirements would be significant enough to detrimentally affect other users in the area. However, as the Highways Engineer expressed some concerns about the use operating on an evening and the impact that this could potentially have upon the evening parking provision in the area, the aforementioned condition was attached to the grant of planning permission. Essentially, it is considered important to reaffirm that the planning condition was only imposed in relation to the potential impact of the use on parking provision.

The on street parking area on West Auckland Road, in front of the application site, is unrestricted after 6pm weekdays and Saturdays and all day on Sunday. There are also unrestricted parking spaces behind the main shopping parade within Cockerton Village and parking bays on the west end of Prior Street which are all within walking distance of the premises.

There are 18 employees at the premises who work on a range of shifts. The applicant has provided the Local Planning Authority with a breakdown of how the staff arrive at the premises and seven arrive by car, with the others using public transport or arriving on foot. Those arriving by car before 07:30 have been asked to park in the bays on Prior Street or in the car park to the rear of the shopping parade.

The applicant has confirmed that the parking areas on West Auckland Road are not fully utilised on an evening as the neighbouring commercial premises are shut, apart from Subways. Alternative parking provision is also available in the wider area. Furthermore there are customers that get dropped off at the premises or arrive in taxis or in groups.

It is therefore considered that the proposed extension to the hours of opening will generate a small additional parking requirement but it is unlikely that this will be significantly detrimental to other highway users in the area due to the proposed times being outside of the operational hours of the neighbouring businesses

Deliveries

Deliveries have occurred at the premises directly off the rear lane since 2007. There are only two deliveries that occur early in the morning, which bring fresh produce five days a week. These deliveries can occur after 07:00 but there are occasions when they have arrived between 06:00 and 07:00. The Council's Environmental Health Section has confirmed that they do not have historic complaints about the delivery times to the premises.

However the applicant has since reached an agreement with one of the suppliers that they do not deliver before 07:00 and therefore there is now only one delivery that could occur before 07:00. This delivery is made by a national supplier and it is not possible to reach a similar agreement with them to ensure that they deliver after 07:00.

The applicant has confirmed that due to practical difficulties it would not be possible to have the items delivered to the front of the premises as this is the customer entrance and the kitchen and storage areas are located at the back of the premises.

All other deliveries to the premises are made once a week between 09:00 and 17:30 and the amount of deliveries would not increase as a result of the proposed increase in opening hours.

The premises are located within a commercial area and there are other neighbouring businesses that would use the lane for deliveries or to gain access to any car parking spaces within their properties. The delivery vans would drive past the rear of the dwellings on Prior Street in order to reach the rear of the application site which is approximately 74m further down the lane.

It is therefore considered that the number of early morning deliveries that are likely to take place, which will probably be characterised by a single delivery van arriving at the application site between 06:00 and 07:00 would not result in significant harm to the amenities of the properties on Prior Street. When taking into account the operational requirements of the business located in a commercial area this would not be an unreasonable arrangement.

Amenity

The table capacity for the premises is a maximum of 35 which translates approximately into 17 tables. Drinks, including alcohol are served but only permitted with food and there is no bar area within the premises, which accords with their License.

The extraction units that are situated on the roof of the single storey rear extension have been approved by the Local Planning Authority (ref no: 11/00211/CON) in consultation with Environmental Health. The business has a 5 Star Food Hygiene Rating issued by the Council and Environmental Health has not received any complaints from any other sources regarding noise from the extractors or odours from the premises.

It is considered that the proposed extension of the hours of opening will not have an adverse impact upon the amenity of the locality.

Other Matters

With regard to concerns raised about parking demand in Prior Street itself it would be a matter for the Council's Highway section to consider whether a resident only parking restriction is required.

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

It is considered that the additional parking requirements resulting from the proposed extension to the hours of opening as shown within the planning submission would not significantly impact upon the evening parking provision within the locality and it would not raise any adverse residential amenity issues. The deliveries to the rear of the premises can occasionally occur early in the morning however officers do not consider that this would have a significant impact on the amenities of the dwellings on Prior Street. The proposal would accord with Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy Development Plan Document 2011

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The premises shall only be open to members of the public during the times specified in the Supplementary Notes submitted with the planning application.

REASON: In the interests of the amenity of the surrounding area

The following policies have been taken into consideration:

Darlington Core Strategy Development Plan Document 2011

Policy CS16 (Protecting Environmental Resources, Human Health and Safety)