

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 31 August 2011

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APPLICATION REF. NO:	11/00467/FUL
STATUTORY DECISION DATE:	24 August 2011
WARD/PARISH:	CENTRAL
LOCATION:	Clervaux Artisan Bakery and Café, 38 Coniscliffe Road
DESCRIPTION:	Variation of condition 5 of planning permission 09/00628/CU dated 17 November 2009 (for change of use from restaurant, offices and residential to a centre providing an organic bakery, cafe, shop, offices and educational workspace for the community and young people) to permit an extension of the opening hours of the cafe and retail area to 0830 to 2300 Monday to Saturday and 0800 to 2300 on Sundays (additional information received 5 and 17 August 2011)
APPLICANT:	Mr R McCordall

APPLICATION AND SITE DESCRIPTION

Planning permission (reference number 09/00628/CU) was granted in November 2009 for change of use from restaurant, offices and residential to a centre providing an organic bakery, cafe, shop, offices and educational workspace for the community and young people. A Noise Assessment was submitted in support of the planning application which included a Summary of Activity and that the café and retail element of the use would open at 0800 and close at 1700. As a result, a planning condition was imposed which states:

“The development shall be carried out in complete accordance with the Summary of Activity details contained with Section 4.0 of “Noise Assessment – Proposed Change of Use, Bishops House, 38 Coniscliffe Road, Darlington” Report Number EMAT/R752 dated August 2009 by EMAT Limited, unless otherwise agreed in writing by the Local Planning Authority”

The use has been implemented and it currently operates in accordance with the above condition but this is a planning application to vary the condition to permit an extension of the opening hours of the cafe and retail area to 0830 to 2300 Monday to Saturday and 0800 to 2300 on Sundays.

The property is a Grade II listed building located within the Town Centre Conservation Area. The surrounding area is a mix of commercial (restaurants, offices and bars) and residential uses but this section of Coniscliffe Road has St Augustine's RC Church to the north and residential properties to the east, south and west (Hogarth Court; Westpoint and Larchfield House respectively).

PLANNING HISTORY

The relevant entries are:

85/00420/LBC/DM In October 1985 permission was GRANTED for a change of use from shop to restaurant including alterations to the front elevation

06/01221/CU In March 2007 planning permission was REFUSED for the change of use of ground floor restaurant to bar. This was a retrospective application

09/00628/CU In November 2009 planning permission was GRANTED for the change of use from restaurant, offices and residential to a centre providing an organic bakery, cafe, shop, offices and educational workspace for the community and young people

09/00629/LBC In November 2011 listed building consent was GRANTED for internal alterations, raising glazed roof and additional roof lights associated with the change of use from restaurant, offices and residential to a centre providing an organic bakery, cafe, shop, offices and educational workspace for the community and young people

PLANNING POLICY BACKGROUND

The relevant policies within the Darlington Core Strategy Development Plan Document are:

Policy CS16 – Protecting Environmental Resources, Human Health and Safety

RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's consultation exercise seven letters of objection were received and they can be summarised as follows:

- *We live directly opposite and we are already disturbed early morning with staff arriving, deliveries and trade refuse collection. Our child's bedroom is facing Coniscliffe Road and is often woken up with noise and I fear late night opening will add to this and I feel this will affect school work if he is then having a disturbed nights sleep. As well as people standing outside to smoke and talk which the staff already do on a regular basis this will also add to unsociable noise and inconvenience to ourselves*
- *I have corporate tenants renting my properties (in the Westpoint development) some of whom have young children and they have all voiced their concerns over these opening hours and the impact it will have on their well being. When the plans for the bakery were first submitted we had no objections to the café opening but if I had known there would be a next phase to these plans i.e. late opening hours, I and many of the other residents in Westpoint would have objected from the beginning*
- *I wish to object to the proposed extended opening hours of 7 days per week*

- *Darlington Housing Association wishes to express its concern if this proposal was approved. Hogarth Court properties have always been allocated to disabled and elderly or persons with a medical need. Having a property next door to it that would be in business till midnight would be detrimental to the well being of the existing and future tenants. Should there be a street café my concerns would be for access for those residents using the Courtyard door as this is right next to the adjoining property*
- *Having people milling around late at night would make me feel vulnerable, not to speak of the noise disturbance this will cause. At present the area is very quiet made up of elderly and disabled people and I feel very strongly against any increase in hours or changes to the present situation regarding the café*
- *My bedroom faces directly onto Coniscliffe Road and I already am woken by people walking past already. If a late night opening time was given this would mean I will be awake till the early hours. Will there be people sitting outside? If so my only entrance is directly next to the property as is two further flats. Will they be blocked? My concern is especially for the disabled residents with need for wheelchair access at all times*
- *It gives me great concern that a suggestion of such opening hours be introduced in or near a residential area especially those who are elderly or disabled who have moved as I did for peace and quiet. I would not be able to stand the noise till midnight especially if outside seating is used as my bedroom window faces directly towards the café itself. This would be very detrimental to my health. You should also realise that two wheelchairs must get into and thought the gate throughout the day and ambulances etc.*
- *Any seating could potentially cause obstructions and access issues for those who need to use the courtyard access.*
- *My concerns are that all of this will lead to something else such as pavement seating and drinks license*
- *The lighting could also affect my epilepsy which I have not suffered from for years and don't want to again*

Following the submission of a Supporting Statement, four further letters have been received and they can be summarised as follows:

- *After viewing the additional information I am even more against the proposed opening hours. If alcohol is drunk on the premises there is bound to be excessive noise as people leave. I do not see any need to have a restaurant with such late opening hours and people eating and drinking opposite our bedrooms. If Clervaux is focused on helping young people who are out of the education system why would they have such late opening hours and what about my child who is in his most important years of education who sleep will be disrupted by such late opening hours*
- *I totally disagree with the hours requested specially until midnight on Sundays. I live across and I have to work on Mondays early in the morning and wonder why this store needs to be open during the weekends till midnight. Please stop this to reasonable times please.*
- *I totally disagree with the schedule hours mentioned on the application. Why is the schedule extended until midnight? I work every day and I wonder about the noise that they will cause*
- *The area now is quiet and pleasant (sometimes alarms go off for quite a long time but it is not frequent) and again, why till midnight? No other business in the area are open that late*
- *I believe that being to midnight would pose a noise nuisance and would affect my enjoyment of my accommodation in a highly residential area*

Consultee Responses

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

The **Council's Principal Environmental Health Officer** has no objections to the proposal

PLANNING ISSUES

The main issues to be considered here is whether or not the proposal is acceptable in the following terms:

Residential Amenity

Highway Safety

Other Matters

Residential Amenity

The application originally requested extending the openings hours of the café use to midnight, however, the applicant has considered the objections that have been received and amended the proposal so that the café use would extend to 2300. The objectors to this application have been re-consulted on this revision and any subsequent letters received by the Council will be mentioned verbally at the Planning Committee.

The property is within a street containing a mix of residential and commercial properties. However, the residential uses are more prevalent around the application site with Hogarth Court to the east, the Westpoint apartment building to the south and Larchfield House to the west.

The property has been previously used for commercial purposes. It has been used as a shop, a restaurant and a Public House prior to the current use. The retrospective application for the change of use as a Public House was refused on the following grounds:

The use would have a detrimental impact on the amenities of the neighbouring residential dwellings by reason of noise and general disturbance. The use would be contrary to Policy S5 (Town Centre Food and Drink Uses) of the Borough of Darlington Local Plan 1997.

The applicant has submitted a Supporting Statement which states "*Clervaux Trust is an educational charity helping a wide range of disadvantaged and disenfranchised groups in the Darlington area. The Trust provides care and training using a practical life skills curriculum and providing experiences that make young people feel valued, useful and skilful*"

The existing bakery serves fresh bread, light lunches and sandwiches produced, where possible from the products of the Clow Beck Farm and Eco Centre at Croft on Tees. Alongside this commercial activity there is a wide range of educational, work experience and work placement opportunities for students together with community based activities.

The Statement continues to state "*Following the success of the development of 38 Coniscliffe Road, the Clervaux Trust would now like to develop the café further, expanding the opening hours to allow for the provision of a restaurant service. The extension of the hours would allow the Trust to provide additional experiences and training opportunities to the people it supports through the running and operation of an evening and weekend restaurant service. The restaurant service would sit alongside the current café, bakery and shop allowing evening meals, utilising the central atrium space during the evening and at Sunday lunchtimes.*"

The Statement confirms that the Trust will not be applying for an alcohol license at this time and would operate a “bring your own bottle” policy. The applicant considers that the use of the premises during the evening would not produce any additional noise due to the location of the dining area in the centre of the courtyard being screened from all sides and that the kitchen would produce no additional noise than it currently does. They consider that alcohol consumption would be kept to a minimum and signs would be placed at the entrance and exit to remind people that they are in a residential area.

The Council’s Principal Environmental Health Officer (Commercial) has considered that application and the Supporting Statement and has commented as follows: “*With regard to the application to vary the hours of opening I would have no comments or conditions to propose on the basis that the premises have a history of being a Licensed restaurant in the past with similar hours of operation. No complaints were received at this time and none have been received with regard to its current use. If food is to be served after 2300 and/or alcohol is to be served, the application will require a Premises License under the provisions of the Licensing Act 2003*”

The building has been previously used as a restaurant and the potential amenity issues which arise from such a use are not comparable with those which arise from a Public House, which is why the retrospective application for that use was previously refused. Whilst officers acknowledge the concerns raised by the objectors, it is considered that the proposed extension of opening hours for the café use would not result in significant residential amenity problems

Highway Safety

The Council’s Highways Engineer considers that the extension of opening hours is unlikely to have a traffic impact and he has raised no objections to the proposed development

Other Matters

The applicant has proposals to create an outdoor seating area on Coniscliffe Road. This seating area does not require planning permission as it is not permanently fixed to the public highway and would be removed on an evening. The applicant has been made aware contact must be made with the Council’s Licensing Section in order to obtain the relevant consents for outdoor seating areas.

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 existing premises are an organic bakery, cafe, shop, offices and educational workspace for the community and young people. The café use currently operates from 0800 to 1700 and this was secured by the imposition of a planning condition attached to planning permission reference number 09/00628/CU. This application has been amended to vary the condition to permit an extension of the opening hours of the cafe and retail area to 0830 to 2300 Monday to Saturday and 0800 to 2300 on Sundays.

There are residential properties in close proximity of the application site but it is considered that the proposed extension to the café use would not significantly impact upon the amenities of the

occupiers of the properties. It is unlikely that the proposal would have any highway safety or traffic impacts. The following policy within the Darlington Core Strategy Development Plan Document has been taken into consideration:

CS16 – Protecting Environmental Resources, Human Health and Safety

RECOMMENDATION

PLANNING PERMISSION BE GRANTED

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

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There are residential properties in close proximity of the application site but it is considered that the proposed extension to the café use would not significantly impact upon the amenities of the occupiers of the properties. It is unlikely that the proposal would have any highway safety or traffic impacts. The following policy within the Darlington Core Strategy Development Plan Document has been taken into consideration:

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