

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 16th December 2009

Page

APPLICATION REF. NO:	09/00583/CU
STATUTORY DECISION DATE:	08/12/09
WARD/PARISH:	North Road
LOCATION:	62 Crosby Street Darlington
DESCRIPTION:	Change of use to motor cycle assembly, refurbishment and repair.
APPLICANT:	Mr J Barzey.

APPLICATION AND SITE DESCRIPTION

This application, which is retrospective, relates to the use of the ground floor only for the refurbishment, repair and assembly of motor cycles, specifically Harley Davidson motor cycles. Internally the floor is carpeted and up to four machines are undergoing work at any one time – there are two employees on the site.

The work area does not resemble the traditional garage workshop in that the work undertaken is more of an assembly of brought in parts or the customisation of existing machines. There is no paint spraying or panel beating or other similar “un neighbourly “ work taking place at the premises.

Before collection by customers the machines are taken outside onto the highway and tested to ensure they function and then taken indoors again for storage before customers collection.

The existing building and its pair adjacent were previously used for commercial purposes – indeed the external appearance has the appearance of commercial premises. The surrounding area includes premises used for MOT testing and garage repairs as well as other commercial uses some of which no longer operate. There is a commercial vehicle store and garage immediately to the rear of the application site.

PLANNING HISTORY

There is no relevant recent planning history on this site, however applications to convert the premises from shop use to a scout headquarters and eight flats were withdrawn in 1996.

PLANNING POLICY BACKGROUND

Local Plan Policy EP15 – Development outside employment areas.

This policy is the most relevant in relation to this application ; the detail of the policy states :

OUTSIDE THE AREAS DEFINED UNDER POLICIES EP2, EP8 AND EP9 AND PROPOSALS EP3 AND EP4, DEVELOPMENT WITHIN USE CLASSES B1, B2 AND B8 WILL BE PERMITTED PROVIDED THAT ANY MATERIALLY ADVERSE EFFECT ON THE AMENITIES ENJOYED BY NEIGHBOURING OCCUPIERS AND ON HIGHWAY SAFETY IS AVOIDED – and

Employment development which adversely affects residential amenity, or is located in the countryside, will not normally be acceptable.

RESULTS OF CONSULTATION AND PUBLICITY

A site notice was posted and local residents were consulted – one letter of objection was received raising the following issues :

- Bikes and other vehicles parked on the road causing congestion.
- Noise from bikes using the site late at night
- Site is a fire risk

Highways Engineer – No objections provided the footpath remains clear of parked vehicles.

Environmental Health Officer – Some concerns regarding potential noise nuisance but satisfied that this could be controlled if necessary via a temporary planning permission and a personal one to the applicant. Other conditions could be attached to any permission granted which will restrict any nuisance caused to acceptable levels.

Building Control Officer – Confirms that a Building Regulations application is required.

PLANNING ISSUES

The main planning issues to consider here relate to the impact of the use of the building on the amenities of local residents and the character of the locality in general.

Impact on the character of the locality – This particular locality is not allocated specifically within the Local Plan and is characterised by a number of uses including residential, commercial and light/general industry. In particular, land immediately to the rear of the application site is used as a repair garage and MOT station and some vehicle storage takes place on the land. Other buildings nearby appear to be vacant but have a past established use as commercial enterprises.

The building adjoining the application site is empty but was used for retail purposes and has in the past operated in association with the application premises. There are a number of residential properties opposite the site and one adjoining the repair garage nearby.

In view of the above, the proposed use is considered to be compatible with the surrounding land uses and bearing in mind the nature of the use being as described above and largely taking place within the building, it is considered that it is not out of context with the existing character of this particular locality.

It may be noted also that the permitted use of the premises is retail which in itself could create a certain amount of on street parking and general disturbance in the locality. In view of this “fall back” position and the nature of the proposed use, highway congestion is not considered to be a problem in this instance. This view is supported by the Highway Engineer.

Impact on the amenities of local residents – Whilst the use will be likely to have a limited impact on the amenities of local residents, it is considered that providing these impacts are reasonable and do not cause an unacceptable nuisance, then the proposed use could be carried out providing there were appropriate safeguards in place in terms of planning conditions.

The nature of the use as described above is not considered to be one where side effects such as noise or fumes would emanate from the inside of the premises, and these would be prevented by a planning condition. Similarly the intensity of the use is such that it is considered that the incidence of external noise nuisance would be restricted, and again this could be controlled via planning conditions.

The use of a personal planning condition which restricts the use of the premises to the applicant only, is considered in this instance to be necessary to ensure that only the specific activities being carried out by the applicant are permitted, this to protect the amenities of local residents.

On balance therefore it is considered that there are enough controls available to the Local Planning Authority to allow support of this proposal with appropriate restrictive conditions attached to a planning permission.

Any issues relating to fire risks at the premises should be addressed by the applicant in association with the local fire officer and the Building Inspector. The applicant has been informed that Building Regulations Approval 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

Whilst the proposed use may appear at first to be inappropriate for such a location, the details of how the business operates are such that in this instance it is considered that, with appropriate planning conditions attached such as those relating to length of permission, noise, nature of uses etc, a personal permission would be appropriate.

If there are any transgressions of the planning conditions then there are adequate safeguards in place to ensure any nuisance to local residents is kept to a minimum and as a last resort, a renewal of planning permission after three years could be refused.

RECOMMENDATION

That permission be granted with the following conditions ;

1. C2 three years from the date of this Notice (Temporary permission)
2. C4 Mr J Barzey (Personal permission)
3. C12 motor cycle storage, assembly, refurbishment or repair (Restriction of use)
4. C15 (No activity outside building)
5. C24 08:00 to 18:00 Mondays to Saturdays only (Hours of operation)
6. No paint spraying shall take place within the site other than that undertaken with hand held self contained aerosol systems. REASON In the interests of the amenities of local residents.
7. The Rating Level (as defined in BS 4142:1997) as a result of site operations associated with this planning permission shall be at least 5 dB(A) below the background noise level at the nearest residential property, when measured in accordance with BS 4142:1997. The background noise level to be used shall be measured and agreed with the LPA. REASON D23

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The decision to grant planning permission has been taken having regard to the policies and proposals in the Borough of Darlington Local Plan set above, and to all relevant material considerations, including Supplementary Planning Guidance.