

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 13 MARCH 2013**

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<b>APPLICATION REF. NO:</b>	<b>12/00684/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>7 January 2013</b>
<b>WARD/PARISH:</b>	<b>COLLEGE</b>
<b>LOCATION:</b>	<b>Balmoral Guest House, 63 Woodland Road</b>
<b>DESCRIPTION:</b>	<b>Change of use of existing guest house cellar to form restaurant (A3) incorporating erection of lantern style roof light and flight of external steps to front</b>
<b>APPLICANT:</b>	<b>MR ANDREW WISE</b>

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**APPLICATION AND SITE DESCRIPTION**

Planning permission is sought for the change of use and alteration to the existing guest house cellar to form a restaurant (A3 use). The proposal would involve the erection of a lantern style roof over the existing cellar which sits beneath a paved area to the front of the property, elevated above the pavement and enclosed by a high (approximately 1.7 metre high stone wall). It is also proposed to alter the existing steps to the front of the property, replacing the lower flight of stone steps and creating a short flight of steps to the cellar off a middle landing. Access would also be gained internally from the existing guest house dining room which is located in the cellar of the property.

The application property is a substantial 3 and a half storey terraced property located on the south side of Woodland Road close to its junction with Milbank Road. The property is also situated within the West End Conservation Area. The property is currently in use as a guest house. Although there are other properties in commercial use elsewhere within the terrace the properties either side are both in residential use, subdivided into flats.

**PLANNING HISTORY**

93/00095/MISC – Erection of a glazed canopy over front door (retention of development already carried out). REFUSED 06.05.1993

94/00826/MISC – Erection of a canopy over front entrance door incorporating an illuminated sign. REFUSED 13.02.1995

99/00181/ADV – Retention of free standing, externally illuminated sign and internally illuminated hanging sign. REFUSED 18.05.1999

07/00271/CU – Change of use, alteration and extension to existing outbuilding to form dwelling.  
WITHDRAWN 17.04.2007

07/00626/CU – Proposed conversion of existing outbuildings in rear garden to a two bedroom dwelling. GRANTED 29.08.2007

## **PLANNING POLICY BACKGROUND**

The following saved policy of the Borough of Darlington Local Plan 1997 is relevant:

- E38 – Alterations to Business Premises

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

- CS2 – Achieving High Quality, Sustainable Design
- CS6 – Vibrant, Cultural and Tourism Offer
- CS9 – District and Local Centres and Local Shops and Services
- CS14 – Promoting Local Character and Distinctiveness
- CS16 – Protecting Environmental Resources, Human Health and Safety

The National Planning Policy Framework 2012 is also relevant to consideration of the application.

## **RESULTS OF CONSULTATION AND PUBLICITY**

**Highway Engineer** – raises no highway objection to the proposal.

**Environmental Health Officer** – No objections.

Four letters of objection have been received from the occupants of each of the four flats at 61 Woodland Road which raise the following issues:

- *The proposal would constitute a severe nuisance on the whole row of houses, particularly to ours. This is a quiet row with the majority being residential. There are a few quiet office businesses and nothing open during the evening. Do not believe a restaurant opening from early morning until 11pm would be suitable;*
- *There would be extra vehicle nuisance in an already difficult area to park. Mr Wise has already ignored this and is in breach of a condition for his planning permission for the coach house, which is currently being used as guest house accommodation rather than a separate dwelling;*
- *The rear is being used as a car park which creates noise nuisance from cars, motorbikes and foot traffic that stare in the windows of the flats in our house. A restaurant would add a much greater nuisance at both the front and back of the properties;*
- *Do not feel confident that Mr Wise will keep to his planning permission for the restaurant. He has already been selling hot dogs from the rear of his property making noise and smell and encouraging strangers to hand around the back lane causing invasion of privacy;*

- *We thought the offer of breakfast, lunch and evening meals was for guests but it would appear that it has been an attempt to operate a restaurant already;*
- *There would be extra noise from footfall throughout the day and all evening well past 11pm both from people entering and leaving. Smokers already create a noise and litter nuisance standing outside and have been known to stare in the windows of the flats. There is already a minor nuisance caused by guests ringing our doorbells by mistake. Restaurant goers would massively increase this nuisance with the added problem of alcohol;*
- *The drains for this row are already problematic and prone to flooding. A restaurant would create a particular nuisance with kitchen grease and extra toilet waste. The drain between Mr Wise's house and the proposed restaurant has been blocked for years causing problems to our basement flat with water and damp.*
- *The proposal would also create a light pollution problem.*
- *The proposal is not in keeping with the character of the row of buildings that are residential in use;*
- *Evenings on Woodland Road are quiet and new traffic and footfall would badly affect this. It would also create more food smells.*

## **PLANNING ISSUES**

The main issues to be considered are whether or not the proposed change of use of the cellar and the associated external alterations are acceptable in the following terms:

Planning Policy  
Residential Amenity  
Highway Safety  
Impact upon the West End Conservation Area  
Disabled Access

### **Planning Policy**

Core Strategy Policy CS6 'Vibrant Cultural and Tourism Offer' states that to support the sustainable growth of tourism in Darlington, a range of visitor accommodation, including provision to meet the needs of disabled people, will be encouraged in appropriate locations, easily accessible by a choice of means of sustainable transport. Policy CS9 'District and Local Centres and Local Shops and Services' is also considered relevant and is equally supportive of proposals to provide individual local shops, leisure uses and services which meet the day-to-day needs of nearby residents without the need to use a car will be protected and promoted. The existing guest house is located in a fairly central location, close to the town centre, readily accessible by a range of means of transport and as such the principle of providing improved facilities within the guest house is considered to be acceptable within the context of these policies. Consideration must be given however to the following matters of development management.

### **Residential Amenity**

The application property is located in a terrace of properties which are either in residential or commercial (office) use however the properties either side are both in residential use converted into flats. Objections to the proposal have been received from the occupants of each of the four flats at 61 Woodland Road although no comments or objections have been received from the occupants of 63 Woodland Road or any other properties within the terrace or nearby. The

principal objections relate to noise, nuisance and disturbance arising from the use of the proposed restaurant and the impact this will have upon the amenities of the neighbouring residential properties. Concerns have also been expressed regarding parking however this will be considered elsewhere in the report.

The applicant has provided the following information in support of the application:

- The proposed restaurant would be open between the hours of 7am and 11pm and would be open to both residents and non-residents;
- The guest house caters for up to 27 residents and the present dining room, located in the basement, is made up of five mixed tables which can cater for up to 18 covers;
- With 12 letting rooms in the house, there is usually a shortfall of tables around breakfast time during the week with individual guests wanting their own table;
- Cater for a wide mix of guests from families with young children, retired couples and construction workers;
- Second seating area would make up the shortfall in tables and provide a more comfortable dining experience for guests;
- There are no neighbouring rooms to the cellar, with both sides being filled ground;
- Opened the doors to the general public for a trial period as we found we had a consistent number of guests wanting breakfast, lunches, cream teas and evening meals. Over the short period we built up a clientele of regular guests. We didn't have a large influx of passing trade at peak times during the day as would be expected in a town centre location;
- The guest house has a licence to sell alcohol. Since we took over the guest house we have received no complaints from the Council for any infringement of planning or environmental issues.

The main issue for consideration is whether or not the use of the cellar as a restaurant in the manner proposed will have an unacceptable impact upon the amenities of surrounding residential properties over and above activity levels currently associated with the existing guest house.

It is not considered that the use of the cellar itself as a restaurant in connection with the guest house and also open to non-residents would have an unacceptable impact on the amenities of neighbouring properties due to its subterranean location. It is however the noise and activity levels associated with the comings and goings of guests potentially up to and later than 11pm that could impact upon the amenities of neighbouring properties in terms of noise, nuisance and disturbance. It should be borne in mind however that the property has been run as an existing guest house with no control over the hours of opening, comings and goings of residents etc for a number of years. Although it is bounded by residential properties on both sides it is located within an area of both residential and commercial properties a short distance from the town centre.

The applicant has advised that prior to the submission of the application he opened the existing dining facilities to non-residents for a trial period to assess demand. During this time no complaints have been made to the Council's Environmental Health Section and the applicant advised that he did not encounter significant passing trade due to the location of the property outside of the main town centre. The improved facilities will also cater for existing residents alongside non-residents. As such it is considered that additional activity levels associated with the proposed restaurant would be unlikely to have an unacceptable impact upon the amenities of neighbouring properties so as to warrant refusal of the application on this basis.

**Highway Safety**

It is not proposed to provide any additional parking spaces to serve the proposed restaurant. The application property is however located in a location close to the town centre and easily accessible by a range of means of transport. In addition, there is on-street parking within adjacent streets which could be used by guests and non-residents. It is not considered that the additional activity levels likely to be generated by the proposed restaurant would give rise to a need for additional parking spaces or put undue pressure on parking provision within the surrounding streets. The Highway Engineer has raised no highway objection to the application.

**Impact upon the West End Conservation Area**

Core Strategy Policy CS14 'Promoting Local Character and Distinctiveness' states that the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place will be protected. Paragraph 133 of the National Planning Policy Framework states that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be'. The property occupies a prominent location within the West End Conservation Area. The application property is a three and a half storey guest house with cellar to the front garden, raised above ground level. The front door is at first floor height accessed by a flight of stone steps which lead up to the door from the street. The application proposes a roof lantern to the existing raised cellar and some alterations to the stone steps.

The cellar roof on this property is currently paved over forming part of the front garden. The roof lantern will be visible from the property and its steps however it will be largely enclosed from the public viewpoint due to the high stone boundary wall to the front of the property. Although it will be the first such addition to the street, due to its size, scale and use of traditional timber it is not considered significant enough to affect the character of the conservation area. Similarly the proposals to alter the existing flight of steps to the front of the property, to create a small flight of steps down to the cellar and to re-align the lower flight of steps is considered to be acceptable and subject to a condition requiring the use of matching stone, and the Council's Conservation Officer is satisfied that harm will not be caused to the significance of the conservation area by the proposed development.

**Disabled Access**

Core Strategy Policy CS2 'Achieving High Quality, Sustainable Design' states that development proposals should support inclusive communities through safe, convenient and attract access for all. The application does not propose to make any provision for disabled access to the property. The applicant has advised that he does not consider that appropriate arrangements could be made for disabled access to the property without having an adverse impact on the street scene, particularly as the property is located within a conservation area. The steps to the front of the property are an important feature of both this terrace of properties and the wider conservation area and any significant alterations to these steps to provide level access would be likely to cause harm to the significance of the conservation area.

**SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

**CONCLUSION**

It is considered that the use of the cellar to form a restaurant to provide improved dining facilities for both residents and non-residents is acceptable in this location. Although concerns have been expressed by neighbouring residents regarding the potential for noise, nuisance and disturbance arising from this proposed use, as this is to operate alongside the existing guest house in an area of mixed residential and commercial use it is not considered that this would have such a significant effect on the amenities of these properties so as to recommend refusal of the application on this basis. The proposed alterations to the property are considered acceptable and do not cause harm to the significance of the West End Conservation Area. The proposal does not give rise to any issues of highway safety. The proposal complies with the relevant planning policies set out below:

**Borough of Darlington Local Plan 1997**

E38 – Alterations to Business Premises

**Darlington Core Strategy Development Plan Document 2011**

CS2 – Achieving High Quality, Sustainable Design

CS6 – Vibrant, Cultural and Tourism Offer

CS9 – District and Local Centres and Local Shops and Services

CS14 – Promoting Local Character and Distinctiveness

CS16 – Protecting Environmental Resources, Human Health and Safety

**The National Planning Policy Framework****RECOMMENDATION**

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. Prior to the commencement of the development hereby permitted details of the stone, including samples, to be used in the construction of the steps to the front of the property shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved materials shall be used in the construction of the steps hereby approved and thereafter be so maintained.

REASON – In the interests of visual amenity.

3. The glazed lantern hereby approved shall be constructed of timber and thereafter be so maintained.

REASON – In the interests of visual amenity.

4. B5 – Compliance with the approved plans

**SUGGESTED REASONS FOR GRANTING OF PLANNING PERMISSION**

It is considered that the use of the cellar to form a restaurant to provide improved dining facilities for both residents and non-residents is acceptable in this location. Although concerns have been expressed by neighbouring residents regarding the potential for noise, nuisance and

disturbance arising from this proposed use, as this is to operate alongside the existing guest house in an area of mixed residential and commercial use it is not considered that this would have such a significant effect on the amenities of these properties so as to recommend refusal of the application on this basis. The proposed alterations to the property are considered acceptable and do not cause harm to the significance of the West End Conservation Area. The proposal does not give rise to any issues of highway safety. The proposal complies with the relevant planning policies set out below:

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**The National Planning Policy Framework**