

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 30th July 2007**

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<b>APPLICATION REF. NO:</b>	<b>08/00294/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>17th June 2008</b>
<b>WARD/PARISH:</b>	<b>CENTRAL</b>
<b>LOCATION:</b>	<b>8 Northgate, Darlington</b>
<b>DESCRIPTION:</b>	<b>Change of use from A1 Mixed A1/A3 Use and Installation of Shop Front (Retrospective)</b>
<b>APPLICANT:</b>	<b>Costa Coffee</b>

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**APPLICATION AND SITE DESCRIPTION**

The application site is situated on the eastern side of Northgate under the Kings Hotel building which is Grade II Listed Building. The site is located within the Town Centre Conservation Area.

Planning permission is sought for the change of use of 8 Northgate (formerly Going Places Travel Agency) from class A1 (retail) to a mixed class A1/A3 use (retail/café). Associated applications for signage and listed building consent have also been submitted. The application site is located within what is identified in the Borough of Darlington Local Plan as primary shopping frontage.

The application was submitted with a Design and Access Statement as required by the regulations.

The change of use and associated external alterations have already been carried out.

**PLANNING HISTORY**

None relevant to current application. The premises has been subject to numerous applications for new shop frontages and signage. There is no evidence of previous change of use applications at the property.

**PLANNING POLICY BACKGROUND**

The following policies of the Borough of Darlington Local Plan are relevant: -

- S2- Safeguarding the Town Centre
- S5- Town Centre Food and Drink Uses

The following national policy guidance is relevant:-

Planning Policy Statement 6 : Planning for Town Centres (2005)

Planning Policy Guidance 15: Planning and the Historic Environment (1994)

## **RESULTS OF CONSULTATION AND PUBLICITY**

Following submission of this formal application for planning permission, the Council undertook a neighbour consultation exercise together with site notices. No objections have been received to date.

The Council's Environmental Health Officer has been consulted and has raised no objections to the proposed development.

The Council's Highway's Officer has been consulted and has raised no objections to the proposed development. Concerns were raised that no level access was shown on the plans submitted. This matter was subsequently resolved to the satisfaction of the Highway Authority and Darlington Association on Disability.

## **PLANNING ISSUES**

The main planning issues to be considered in the determination of this application are: -

- Planning policy
- Highway matters

### **Planning Policy**

The Proposal

No.8 Northgate is a ground floor shop unit, which was occupied until late 2007 by the Going Places travel agency, a class A1 shop use. It had been in continuous A1 occupancy for many years. Going Places closed after an industry merger with the Thomas Cook group who already had a branch in the town centre located opposite.

Costa Coffee began fitting out the property early in 2008, without the benefit of relevant planning permissions and consents, and opened a coffee shop for business in April. This application for retrospective permission for change of use was submitted shortly after. The application includes a change of use from class A1 to what the applicants describe as a "mixed A1/A3 use". Whilst some customers clearly buy coffee and other items to take out officers have considerable doubt as to whether the operation is truly a mixed use in planning terms or is, in reality, a class A3 café, with A1 take-away sales being merely ancillary.

The planning use of a premises is determined by its primary use. ODPM Circular 03/2005 advises that: "Coffee shops will need to be considered on a case by case basis. Whether their primary purpose is as a shop, ie. premises for the sale of beverages to be taken away, or as a café, where the primary purpose is consumption of beverages on the premises, or indeed whether it is a mix of both uses." To be a mixed use each use must be more than ancillary: they should each be a significant or primary use. PPS6 (Planning for Town Centres, 2005) states that whether a shop is ancillary will depend on factors such as scale, the range of goods sold and the

proportion of turnover involved. Circular 03/2005 advises that local planning authorities “need to take into account more than just the amount of floorspace occupied by different uses”.

The present applicants maintain that “neither activity [at 8 Northgate] dominates the other, neither is ancillary to the other” but have submitted no evidence to show that the A1 take-away sale of coffee, etc is anything but ancillary to the primary use as a café. Costa is the largest chain of branded coffee shops in the UK, with over 540 outlets, but the company has provided no details, either for the company overall, for comparable locations or for this specific operation, of pertinent factors such as the split of turnover or customer transactions/visits between A3 in-sales and A1 out-sales. Appeal decisions submitted in support of their case relate not to Costa Coffee but to a different operator, who cannot be assumed to have the same business model. The layout as implemented at 8 Northgate is overwhelmingly dominated by seating areas, including the provision of seats and tables up against the front window and next to the serving counter. From the street the business has the appearance of a café, with no window displays or signs to suggest a significant shop use lies within. The applicants claim that approximately 20% of the total ground floor area “will be devoted to retail”, explaining that “this is calculated as the counter and the approach to the counter”. Officers can see no logical reason why these areas, which are clearly essential to the café use, should be allocated solely to A1 use in floorspace terms. These concerns were raised with the applicant and as a result a revised layout has been submitted removing some seating from the front portion of the shop in the vicinity of the counter. More retail displays will be provided in their place to provide a more retail based frontage. (A ‘shop display’ of coffee and coffee pots has recently been placed in the window). Table numbers have been reduced from 23 to 18. It is apparent that in terms of floor area the unit will still be dominated by the A3 usage but to a lesser extent.

The applicant has conducted a footfall survey that demonstrates that the Costa Coffee unit is attended by a far greater number of people than two of the neighbouring units (Boots Opticians and ‘3’ mobile phone store). The applicant claims that this demonstrates that the unit contributes to the vitality and viability of the town centre in the same way as a retail use would. This is a material consideration as Policy S2 seeks to safeguard vitality and viability of the town centre. No evidence is provided within the survey for the proportion of people attending Costa Coffee to use its facilities to sit down to purchase and consume items on the premises (Café - A3) or those that take items away (Retail - A1).

In the absence of evidence to the contrary, and in particular lack of information to demonstrate the breakdown of sales since the property opened for business in relation to the split of sit in (A3) sales and take out (A1) sales, officers therefore consider that the proposal should be considered as a change of use from a class A1 shop to a class A3 café with ancillary A1 sales.

### **Relevant Policy**

The Borough of Darlington Local Plan categorises the town centre into three types of shopping area: primary shopping frontages, secondary shopping frontages and elsewhere. Northgate is identified as a primary shopping frontage. No.8 is in a particularly prominent and busy location within the pedestrianised heart of the town centre. The Local Plan, through various policies, resists the further loss of class A1 shop units to non-class A1 uses, with Policy S5 being relevant to the present proposal. It states that:

*“The loss, by change of use or redevelopment, of ground floor class A1 shops in the primary shopping frontages of the town centre to restaurants, cafes, hot food take-aways, public houses and other class A3 uses will not be permitted.”*

The reasoned justification explains that: “A number of uses other than shops are traditionally found in the town centre and these can serve valuable functions. However, ancillary uses should not be allowed to displace the main shopping uses from the most important streets, nor to detract from the shopping character of a particular length of frontage. Northgate is the principal outdoor shopping street in the town centre, with a large proportion of modern shop units (i.e. replace irrelevant works with ... ) which meet a demand which is not provided for elsewhere. It remains almost entirely in shop use, continues to attract substantial investment from property owners and shop operators, and contains a number of national retailers. It is important that this role is maintained”. (Local Plan paras. 7.13-14)

The applicants accept that the planning application is contrary to Policy S5. Therefore, in the absence of other material considerations it should be refused. The applicants have put forward various points as material considerations in support of the application, including the following:

- Coffee shops are now regarded as part of usual town centre amenities. The proposal will increase the range of amenities.
- Costa contribute more to the vitality and viability of a town centre than many retailers, attracting strong customer footfall and patronage compared to typical retail offers.
- The unit was previously vacant.
- Darlington is a thriving, successful, robust town centre. There are limited numbers of vacant units in the town centre in general and in the vicinity of the application site in particular.
- The premises will trade as a mixed A1/A3 use.

Most of these points have already been dealt with above but officers would add the following:

- Coffee shops are an accepted and valued part of the diverse mix of uses within Darlington town centre but they are ancillary to the key shopping function and are more appropriately located outside the primary shopping frontages, including on upper floors (as is the case with the original Darlington branch of Costa Coffee, on the first floor of Waterstones bookshop), or within premises already in non-A1 use (as with Starbucks who took over established mixed use premises in Queen Street).
- The application property was vacant for no more than a few weeks, after decades in continuous A1 use, before Costa moved into it. Costa have confirmed that it was not placed on the open market. If it had been, there is no reason to believe such a prominent unit in a prime retail location would not have been occupied by another A1 business within a reasonable period of time.
- Although in fairly good health, Darlington town centre contains a significant proportion of vacant shop units: on average 40 or more units are empty at any one time. Costa have provided little evidence of any difficulty they may have had finding alternative premises in a more acceptable planning location.
- There is little evidence that Costa Coffee at 8 Northgate trades as a true mixed use. It appears to be overwhelmingly A3.

**Highway Matters**

Plans originally submitted indicated a stepped access into the property with a push bell to alert staff that access would be required. This raised objection from both Darlington Association on Disability and the Highway Authority. Works undertaken at the premises that resulted in a level access being created off Northgate with an internal ramp to greatly improve access and resolve objections raised. Plans indicate an external seating area in the highway to the front of the unit. This aspect of the development would not require planning permission due to its temporary nature however such seating areas require an appropriate pavement licence issued by the Highway Authority. The applicant has been informed of this requirement.

**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**

In conclusion, there do not appear to be any material considerations of sufficient weight to outweigh the policies of the Local Plan, in particular, Policy S5. Consequently, refusal of planning permission is recommended.

**RECOMMENDATION**

That planning permission be REFUSED for the following reasons:

The proposed change of use from class A1 shop would be detrimental to the character and vitality of this part of Northgate as a primary shopping frontage and fail to accord with Policies S2 and S5 of the Borough of Darlington Local Plan. These seek to safeguard and enhance the vitality and viability of Darlington town centre and in particular, avoid the loss of ground floor Class A1 units in the primary shopping frontages to other uses which are more appropriately located elsewhere within the centre. The application unit is in an especially prominent location at a busy focal point within the heart of shopping centre and the impact of the proposal would be accentuated commensurately.

**Borough of Darlington Local Plan 1997**

S2 - Safeguarding the Town Centre.

S5 - Town Centre Food and Drink Uses

PPS6

PPG15