

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 12 February 2014**

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<b>APPLICATION REF. NO:</b>	13/00958/CU
<b>STATUTORY DECISION DATE:</b>	6 February 2014
<b>WARD/PARISH:</b>	PARK EAST
<b>LOCATION:</b>	87 Grainger Street, Darlington
<b>DESCRIPTION:</b>	Change of Use from Retail Shop (A1) to Hot Food Takeaway (A5)
<b>APPLICANT:</b>	Mr Bagicha Singh

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**APPLICATION AND SITE DESCRIPTION**

The application site is located on the corner of Grainger Street and Henderson Street. It is currently a vacant general dealer (Class A1) with living accommodation above. The proposal involves the change of use of the ground floor to a hot food takeaway, namely a fish and chip shop (Class A5). The property has a shop front with external roller shutters across the door and window display. There would be no external alterations to the building other than a potential external flue which would run up the rear elevation within a covered yard. The proposed hours of use have been revised so that the fish and chip shop would be open between 11:30 to 21:00 Monday to Saturday and 12:00 to 19:00 on Sundays.

The surrounding area is predominantly residential but there are some commercial premises (both A1 and A5 uses) on the end of terraced streets in the locality.

**PLANNING HISTORY**

13/00749/FUL In December 2013 a retrospective planning application was GRANTED for Erection of roof covering and enclose existing yard area to rear

**PLANNING POLICY BACKGROUND**

The relevant local development plan policies are:

**Darlington Core Strategy Development Plan Document 2011**

- CS2 - Achieving High Quality Sustainable Design
- CS16 - Protecting Environmental Resources, Human Health and Safety

**RESULTS OF CONSULTATION AND PUBLICITY**

Three letters of objection have been received and the concerns can be summarised as follows

- *The takeaway would be in a residential area and would cause nuisance and noise disturbance to the neighbouring houses with traffic and youths gathering*
- *Excessive late night noise and disruptive behaviour late into the night*
- *There is already one Chinese takeaway within 400 yards and a fish and chip shop 500 yards away. Also there are eight takeaway establishments on Victoria Road*
- *The granting of permission would encourage people in the area to become even more reliant on fast food against their health and wellbeing.*
- *The excessive smells and fumes from the takeaway would spoil the enjoyment of residents and cause nuisance*
- *It is in a quiet cul de sac so traffic would have to turn around and cause safety issues to residences and children who play in the street. The parking outside of the takeaway on double yellow lines and no public parking is available near the proposed application for staff and customers*
- *Impact upon the environment due to litter and encouragement of vermin.*
- *The lack of any refuse store*
- *Devaluation and detrimental impact on properties in the area.*
- *This street is already linked with accidents on the main road (Park Lane) due to junctions being blocked by people parking irresponsibly on the corners outside shops. We see this at Park Lane fish shop already*
- *Increase in smells, sometimes it is impossible to sit in your yard or even open your windows because the food smells are repellent.*
- *The amount of litter which accumulates around the corner shop is disgusting especially with all the additional obstructions which have sprung up.*

Following a second consultation with objectors in relation to the reduction in hours of use, the following comments were received:

- *I still wish to object to the planning application 13/00958/CU - 87 Grainger Street, even with the proposed new opening hours. I object twice as I own 2 properties in Grainger Street 89 and 97.*
- *Thank you for your response to my concerns. However I do feel that a 7 day opening will be extremely disturbing to the people living in the area, there will be very little relief from smells and noise pollution. Those hours are ridiculously long, 7 days per week, the reduced hours do nothing to convince me that this is the right area to be opening a take away business. There will be people hanging around, additional litter and half eaten food tossed around the area which will increase vermin, additional noisy people/cars etc. As I said in my initial objection, we already have a Chinese on the corner of Smithfield Road which is open till late, a convenience store on the other corner which has cars blocking the junction (already an accident blackspot) and a further fish and chip shop on another corner which already creates problems with cars blocking junction. All this will do is increase the noise and antisocial behaviour which we have to put up with at the moment. As someone who has to go to work very early in the morning and so must retire early on a night I can only think that to open another chip shop so close to us will reduce our quality of life significantly.*

### **Consultee Responses**

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

The **Council's Principal Environmental Health Officer** has raised no objections to the application subject to the imposition of conditions.

**Darlington Association on Disability** have withdrawn their holding objection to the application

## **PLANNING ISSUES**

The main issues to be considered here are whether or not the proposed change of use is acceptable in the following terms:

Planning Policy  
Residential Amenity  
Highway Safety  
Disabled Access

### **Planning Policy**

Policy CS2 of the Core Strategy is an overarching policy with regard to the design and quality of new development, including changes of use and it seeks to ensure that proposals are accessible for disabled persons and provide adequate parking suitable for its use and location.

CS16 of the Core Strategy states that new development (which includes changes of use) should protect and where possible improve environmental resources, whilst ensuring there is no detrimental impact on the environment, general amenity and the health and safety of the community.

### **Residential Amenity**

The premises are located on the end of a terraced street and were last used as general dealers which operated until the hours of 2300 and therefore it has previously attracted customers and car users late on an evening. The applicant has agreed to reduce the hours of use for the fish and chip shop and these can be secured by a planning condition. The proposed hours of use are more limited than the previous use as a retail shop. It is important to bear in mind that the general dealer use could resume without the need for planning permission.

Environmental Health officers have raised no objections to the scheme subject to the imposition of a number of conditions relating to agreeing details of external plant such as fans, ducts etc, methods for controlling fumes and odours and details for the storage of waste and refuse.

Anti social behaviour can be a material planning consideration but there is no evidence to substantiate the concerns that the proposal would result in such behaviour and again, it is important to bear in mind the existing use of the premises and that the hours of opening of the proposed use are restricted to an earlier closing time than the existing use.

There is an existing litter bin directly outside the premises which the patrons of the premises would be able to use.

It is considered that the proposed change of use, subject to the aforementioned restrictions, would not significantly impact upon the amenities of the neighbouring properties and would accord with Policy CS16 of the Core Strategy

One of the concerns relates to the devaluation of residential dwellings but this issue is not a material planning consideration.

### **Highway Matters**

There is customer parking provision for four vehicles on Henderson Street (alongside the gable end of the premises) plus one further space to the front (Grainger Street). It is considered that the proposal would not result in a dramatic change in the servicing arrangements for the premises and therefore the highway impact to residents should be minimal especially as this would serve a large walking catchment area of customers.

### **Disabled Access**

The premises currently have a small open paved forecourt (in the applicant's ownership) and there is a step leading into the premises. The applicant has confirmed that the step would be removed which would then provide a level access into the premises. Darlington Association on Disability (DAD) agreed to withdraw their holding objection providing that a condition is imposed to ensure the step is removed prior to the opening of the fish and chip shop and the applicant has agreed to this.

### **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 proposed change of use of these retail premises to a hot food takeaway is acceptable due to the restricted hours of use that have been agreed and the fact that the premises have been previously used for retail purposes and could revert to this use without the need for permission. Any smells and odours from the premises can be controlled by appropriate extractors and vents and there is sufficient parking provision for customers. The proposed change of use would accord with the relevant development plan policies

### **RECOMMENDATION**

**PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. A3 – Implementation Limit (Three Years)
2. The use hereby permitted shall not be carried on outside of the hours 1130 to 2100 Monday to Saturday and 1200 to 1900 on Sundays and Bank Holidays  
REASON: In the interests of residential amenity
3. D4 - Refuse Storage (Details to be submitted)
4. D18 - Control of Fumes
5. D19 - Ventilation Equipment (Details required)
6. Prior to the commencement of the use, the existing step at the entrance to the premises shall be removed and a level access shall be created to the satisfaction of the Local Planning Authority.  
REASON: To ensure that the premises are accessible for disabled persons

7. B5 – Detailed Drawings (Accordance with Plan)

**THE FOLLOWING POLICY DOCUMENTS HAVE BEEN TAKEN INTO ACCOUNT IN ARRIVING AT THIS DECISION**

**Darlington Core Strategy Development Plan Document 2011**

- CS2 - Achieving High Quality Sustainable Design
- CS16 - Protecting Environmental Resources, Human Health and Safety

**INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED**

**Environmental Health**

An internal grease trap shall be fitted to the commercial drain outlet serving all the food preparation business appliances

Environmental Health enforces Food Safety and Health and Safety legislation at this premises and the applicant is advised to contact the department (Mr S Todd – 01325 388566) prior to the undertaking of any work to ensure that all legislative requirements are met.