

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 2 June 2010

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APPLICATION REF. NO:	10/00069/FUL
STATUTORY DECISION DATE:	1 June 2010
WARD/PARISH:	PIERREMONT
LOCATION:	91 Surtees Street
DESCRIPTION:	Alterations to shop front and insertion of door to front, insertion of first floor window to side and installation of ventilation flue to side (Revised scheme) (as amended by plans received 17 May 2010).
APPLICANT:	Mr A Singh

APPLICATION AND SITE DESCRIPTION

The application site consists of a two-storey end terraced property situated on the south side of Surtees Street and on the corner of Salisbury Terrace within a predominantly residential area. The ground floor of the building was formerly in retail usage with a residential flat above. A rear service lane runs to the side of the property providing access to properties on Surtees Street.

Planning permission for change of use to a hot food takeaway was originally refused under delegated powers but the applicant successfully appealed the decision and the Planning Inspectorate granted consent for the change of use on 22 September 2009. This permission remains extant and could be implemented anytime within three years from the date of the inspectors decision.

Planning permission is sought for minor variations to some of the external details of this proposal these include insertion of an additional front door to allow direct access to the flat above, relocation of the extraction flue further towards the rear of the property and insertion of an additional window to the proposed living room/kitchenette on the first floor. It should be noted that a widened window is proposed on the ground floor side elevation of the property which would not in itself require planning permission but does differ from the approved plans.

PLANNING HISTORY

09/00099/CU - Planning permission granted on appeal for change of use of ground floor shop (A1) to hot food takeaway (A5) incorporating internal alterations and installation of extractor

flue subject to a schedule of conditions to limit disturbance to residential amenity. Granted 22 September 2009.

PLANNING POLICY BACKGROUND

The inspector when determining the change of use appeal concluded that subject to the imposition of conditions restricting the opening hours to those sought and restricting the opening hours to those stated in the application (1130 to 2100 Monday to Saturdays including Bank Holidays and not on Sundays) and requiring the installation of ventilation equipment there would be no unacceptable harm to the living conditions of local residents through noise disturbance and cooking fumes. It was therefore considered there was no material conflict with the objectives underlying Local Plan Policies H15 (The Amenity of Residential Areas) and S18 (Food and Drink Uses Outside the Town Centre).

In the context of the proposal Policy E38 (Alterations to Business Premises) of the Borough of Darlington Local Plan is considered most relevant to the determination of this case. The policy permits alterations to business premises so long as there would be no material adverse effect on the character and appearance of the building, or of the street scene in which the building is located.

RESULTS OF CONSULTATION AND PUBLICITY

One letter of objection has been received to the proposal from the owner of the two adjoining residential flats. Raising objection for the following reasons:

- *We oppose any sort of food outlet such as fish and chips, pizza, Chinese, Indian, etc. Due to the hours of opening they operate often attracting noise and crowds at late hours and smell from cooking which may cause offence (disturbance) to neighbours.*
- *As well as our concerns over this proposed alteration, our tenants have expressed concerns too. We own seven self contained units next to this property (89 and 89 A-G Surtees Street) and we would not like any business to open on these premises which would affect the quality of life already in existence in these flats or which may subsequently cause problems for us.*

The councils Environmental Health section initially raised objections to the proposal on the grounds that a number of aspects of the internal layout did not comply with separate environmental health legislation. Amendments were made to the scheme as a result of these objections and now no objection is raised subject to a condition being imposed that the first floor flat is occupied by residents working at the takeaway and not as a separate dwelling unit. Should the flat be in separate occupation additional sound insulation would be required between floors. The agent for the application has indicated that this would be acceptable to his client.

The Councils Highway Section has commented that the proposed Tees Valley Bus Network Improvement Scheme (not yet implemented) would have an impact on the availability of parking for the proposed use and an existing garage would be removed. It is considered however that sufficient parking for the proposed use would be available in the back lane and on the streets in the vicinity of the property. Also the pedestrian access to the upstairs flat is now gained from the front of the property and this is a marked improvement on the previous proposal that provided access from the back lane.

PLANNING ISSUES

The principle planning issue to be considered in this application is the impact upon visual amenity. It is appreciated that the change of use will have some impact upon residential amenity however the planning inspectorate viewed this impact as not being excessive and granted consent for the change of use subject to conditions. This proposal involves minor revisions to this scheme that raise no additional concerns from a residential amenity perspective. The new window opening is in the south western gable of the property and does not overlook any residential properties. The additional doorway to the front of the property leads directly to a new staircase up to the first floor flat. This staircase should provide an additional buffer between the neighbouring flats and the ground floor waiting area of the takeaway.

The main impact upon visual amenity of the area involves the insertion of a new doorway, modifications to the previously approved shopfront, insertion of an additional window and relocation of the flue to discharge at a point further to the rear of the building. The majority of the flue will now run within the building. Compared to the scheme that has already been approved there are significant improvements with respect to the location of the ventilation flue and will have a reduced impact upon the streetscene of Surtees Street. The insertion of an additional door to the front of the property and window to the side elevation does not adversely impact upon the appearance of the existing building. The proposed shop front is similar in design to that already authorised but is 4.5m wide as opposed to 5.1m in order to accommodate the additional doorway.

The existing corner entrance point to the property is to be retained which does not require consent in isolation to retain, this was to be removed in the previously approved scheme.

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 relatively minor amendments to the scheme already approved offer significant benefits in terms of visual amenity and impact upon the streetscene.

RECOMMENDATION

Planning permission BE GRANTED subject to the following conditions:

- 1) A3 – Statutory time limit (3yrs)
- 2) B5 – Implementation in accordance with approved plans.
- 3) The business shall not operate and customers shall not be present on the premises outside the hours of 11:30 – 21:00 hours Mondays to Saturdays inclusive, including Bank Holidays. The premises shall not be open to customers on Sundays

Reason: In the interests of neighbouring residential amenity

- 4) Before the change of use is brought into effect and notwithstanding the information shown in the application regarding the proposed ventilation flue, full details of an odour suppression and ventilation system shall have been submitted to and approved in writing by the local planning authority. The system shall have been installed in accordance with the approved details before the change of use is first brought into operation. The system and any associated equipment shall be used whenever the permitted use is operating or cooking is taking place and it shall be regularly maintained and serviced in accordance with the manufacturer's recommendations.

Reason: In the interests of neighbouring residential amenity

- 5) Should the flat above the development hereby authorised be occupied, let or otherwise disposed of as a separate dwelling occupation shall not take place until full particulars and details of a scheme to insulate the premises between the flat and hot food takeaway has been submitted to and approved by the local planning authority in writing. Thereafter the mitigation measures recommended in the scheme should be implemented prior to the flat coming within separate occupation and thereafter retained.

Reason: The development is considered unsuitable for occupation by a separate person or household not involved in the operation of the hot food takeaway without adequate protection against sound transmission.

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The proposed change of use is considered to be acceptable in this location by virtue of the fact that it would not have an adverse impact on the character or amenity of the area. The proposal does not raise any issues in respect of highway safety or crime prevention. The proposal is considered to comply with the relevant policies in the development plan set out below:

Policy H15 - The Amenity of Residential Areas

Policy S18 - Food and Drink Uses Outside the Town Centre

Policy E38 - Alterations to Business Premises