

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10 February 2010

Page

APPLICATION REF. NO:	09/00909/FUL
STATUTORY DECISION DATE:	17 February 2010
WARD/PARISH:	CENTRAL
LOCATION:	Progression Night Club, East Street
DESCRIPTION:	Change of use from (A1) retail use to (A3) restaurant
APPLICANT:	Ms S Wang

APPLICATION AND SITE DESCRIPTION

The premises are located on East Street within the town centre. The premises are two storeys high with an internal service yard. The application is for the change of use of the premises from a retail unit to a restaurant. The authorised use of the former nightclub is Class A1 retail, as the planning permission, granted in 2005 (See Planning History) has been implemented (the approved external alterations have been carried out) but the unit has never been occupied. The proposed restaurant would have seating areas on the ground and first floors. There would be no external alterations to the premises.

PLANNING HISTORY

The most recent entries are:

05/00201/FUL In April 2005, planning permission was GRANTED for the installation of a new shop front

05/00909/CU In April 2005, planning permission was GRANTED for the change of use of night club to retail use.

PLANNING POLICY BACKGROUND

Policy S5 (Town Centre Food and Drink Uses) and Policy R2 (Access for People with Disabilities) of the Borough of Darlington Local Plan are relevant

RESULTS OF CONSULTATION AND PUBLICITY

One letter of objection has been received raising the following concerns

- *The change of use would mean that there is less retail space available in the town making the area less of a shopping destination;*
- *The change to a night time use would bring problems such as litter, vandalism and worse to a shopping area making it unpleasant for people wishing to shop the following morning. I have experience of the problems such as this bring to areas around stores in other towns.*

Consultee Responses

Darlington Association on Disability raised concerns over the disabled access to the premises and to the internal layout. The applicant has confirmed that the existing entrance into the premises is level with the footway and they will ensure that when the internal layout is finalised, the toilets etc will meet the relevant Disability Discrimination Act requirements. Darlington Association on Disability are satisfied that the proposed use would comply with Policy R2 of the Local Plan

The Council's **Highways Engineer** has raised no objections to the proposed change of use provided that the size of the existing internal service yard area remains unchanged.

The Council's **Environmental Health Officer** has raised no objections to the proposed change of use subject to the imposition of two planning conditions relating to providing details of the ventilation systems for the building and the method of storing refuse.

PLANNING ISSUES

The main issue to be considered here is whether or not the proposed change of use complies with the relevant policies within the Borough of Darlington Local Plan. The application site falls within the Town Centre limit as defined by the Plan. Policy S5 (Town Centre Food and Drink Uses) states that the loss, by change of use of Class A1 shops in the primary shopping frontages of the town centre to restaurant uses will not be permitted. Restaurant uses in the secondary shopping frontages will be permitted provided that the overall concentration of non shop uses in a particular length of frontage would not be undermined in terms of its character or vitality. Elsewhere within the town centre, restaurant uses will be permitted provided that there would be no adverse impact effect on residential amenities.

The application site is not within a primary or secondary shopping frontage and therefore parts 1 and 2 within Policy S5 are not relevant. As a result the proposed change of use is considered acceptable provided that there would be no adverse impact on residential amenity. In this instance, there are no residential properties in the locality and therefore the proposal would comply with the final part of Policy S5. Notwithstanding this there is no evidence to suggest the proposed use would lead to increased litter and vandalism. It is considered appropriate to attach planning conditions relating to the proposed ventilation systems and method of refuse storage as requested by the Environmental Health Section to ensure that the proposed change of use does not create adverse noise, odour or litter problems. A planning condition to ensure that the existing internal service yard is retained is considered appropriate in the interests of highway safety.

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 premises are not located within the primary or secondary shopping frontages within the town centre and therefore the proposed change of use is permitted in this location provided that no residential amenities are harmed. There are no residential properties within the locality and therefore the proposed change of use complies with Policy S5 (Town Centre Food and Drink Uses) of the Borough of Darlington Local Plan. The existing access and the internal layout of the premises would comply with Policy R2 (Access for People with Disabilities) of the Borough of Darlington Local Plan. The proposed change of use does not raise any highway or environmental health issues subject to the imposition of suitable planning conditions.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 – Implementation Limit (Three Years)
2. D19 – Ventilation Equipment (Details Required)
3. D4 – Refuse Storage (Details to be Submitted)
4. Notwithstanding the details shown on the approved plans, the existing internal service yard shall be retained and the floor area of the yard shall not be reduced without written consent being obtained from the Local Planning Authority.

REASON: The existing service yard is the only provision for servicing the premises as the highway frontage is designated for disabled parking or by double yellow lines with a no loading restriction. The removal or reduction in size of the service yard would result in conditions prejudicial to highway safety.

5. B5 – Detailed Drawings (Accordance with Plan)

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The premises are not located within the primary or secondary shopping frontages within the town centre and therefore the proposed change of use is permitted in this location provided that no residential amenities are harmed. There are no residential properties within the locality and therefore the proposed change of use complies with Policy S5 (Town Centre Food and Drink Uses) of the Borough of Darlington Local Plan. The existing access and the internal layout of the premises would comply with Policy R2 (Access for People with Disabilities) of the Borough of Darlington Local Plan. The proposed change of use does not raise any highway or environmental health issues subject to the imposition of suitable planning conditions.

INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED

The applicant is advised that contact must be made with the Assistant Director: Highways and Engineering (contact Ms.P.Goodwill 01325 388760) in relation to naming and numbering of the development.

