

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 12 March 2014

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APPLICATION REF. NO:	13/01007/FUL
STATUTORY DECISION DATE:	10 February 2013
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE
LOCATION:	Northern Nurseries, Station Road, Piercebridge
DESCRIPTION:	Variation of condition 9 (cater for a maximum amount of 50 covers) of planning permission 11/00715/FUL dated 19 March 2012 to increase the maximum amount of covers served to 70 (amended Site Layout plan received 18 February 2014)
APPLICANT:	Mr Charlie Turner

APPLICATION AND SITE DESCRIPTION

In March 2012 planning permission (See Planning History) was granted for erection of a garden centre building with an internal café area. The permission was granted subject to a number of conditions, including 9) which states:

Notwithstanding the details shown on the approved plans, the café area within the building hereby approved shall cater for a maximum of 50 covers only unless otherwise agreed in writing by the Local Planning Authority.

The condition was imposed in the interests of residential amenity and to safeguard the viability and vitality of other local shops and services.

This application is to vary the condition and to increase the number of covers from 50 to 70. There would be no internal alterations to the building to enlarge the footprint of the café and no additional plant or machinery such as flues and extractors would be required. The increase would involve placing a further twenty seats into the existing café area.

There are also conditions on the 2012 planning permission which restrict the opening hours of the café to 0900 to 1600 Mondays to Sundays and to ensure that no external café areas are created on site. These conditions would remain in force and are not affected by this planning application.

The site is in a rural location accessed off the A67 and B6275. There are residential properties on the north boundary (The Sidings); the east boundary (Juniper House) and on the south west

boundary (West View). Station House is located to the north east of the application site on the opposite side of the B6275. Piercebridge Village is approximately 400 metres to the south.

PLANNING HISTORY

11/00715/FUL In March 2012 planning permission was GRANTED for the erection of garden centre retail building, cafe and extension to existing car park and alterations to existing entrance to the site

PLANNING POLICY BACKGROUND

National Planning Policy Framework 2012

Darlington Core Strategy Development Plan Document 2011

Policy CS1 - Darlington's Sub Regional Role and Locational Strategy

Policy CS7: The Town Centre

Policy CS9: District and Local Centres and Local Shops and Services

Policy CS16: Protecting Environmental Resources, Human Health and Safety

RESULTS OF CONSULTATION AND PUBLICITY

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

- *Reason 9 given by the Council in their notice of planning permission dated 26th October 2011 is still valid, the cafe shall cater for a maximum of 50 covers "in the interest of residential amenity and to safeguard the viability of other local shops and services". There has been no material change that should merit permission for an extra 20 seats to be given. In the Committee report of 14th March 2012 it was suggested that the cafe would serve "the menu would include sandwiches, jacket potatoes, cakes, coffees, ice cream and hot specials." The reality is that Sam Turners are turning the garden centre into a destination cafe. They are serving more fried food with its associated odour problems than was suggested in the Committee report. Fridays is fish and chip day (advertised as such), the odours from which have affected our amenity particularly in warmer weather. This will be worse if the Council were to grant permission to increase the covers.*
- *The amendment of the planning consent would result in an increase of 29%. The initial Report states that the café should not become a destination café.*
- *In the covering letter from the applicant, they use Strikes as being an example of which Turners would like to emulate in the café business. The evidence of this type of business shows they are geared to being a mainly café destination for the majority of the year. Originally Strikes was used as an example of what was not desired or acceptable in this particular rural area with its fine balance of local business and farm diversities, who have interests and also support the local community by being residents in the area.*
- *We understand their desire to provide a pleasant customer destination but this should not be to the detriment of other local businesses, community and environment*
- *During the 10 months of operating, the applicants have had to be reminded of their commitment to abiding by the planning conditions. For example, the restriction on outdoor eating was ignored during the summer months by placing garden furniture that was For Sale just outside the café patio doors and allowing or turning a blind eye to the use by café customers. Also the serving of 70+ customers has also been observed*
- *The letter requesting the variation suggests that seating at "peak times." This is obviously peak café times not the ancillary support facility for the main core business as*

declared in the original application. The letter also declares there would be no impact on other dining experience. This is a clear indication that the main development and growth of the site is an out of town destination café. They offer no other evidence or research that there has been nor will there be further impact on other local businesses. It is merely an assumption

- *The letter states that they have plenty of parking and good access. This was not evident during the summer months as there was congestion back to the junction, parking on the road verges and the employment of 34 must need considerable extra parking. All this will be exacerbated with a variation to the present planning*
- *A large sign at the busy cross roads advertises “Sammies Café” as its central and most important feature. As does their advertising for the site at Piercebridge not as originally stated as it being ancillary to Sam Turners Agricultural Hardware and Garden Centre*
- *The letter indicates they already have the room to increase the seating...which because of the design of the building they can continue to expand without any further building works. And as quoted they would like to “grow” in this area...How far and to what cost to the local residents and businesses*
- *Restriction was placed by the Planning Committee to keep the operation to a size that protected the local amenity, local businesses and restrict traffic flows on a very dangerous road section. None of these conditions have changed. The development is threatening to become a destination eatery rather than a garden centre with a small cafe. Is this acceptable in this rural location with such bad access? The cooking exhausts from the kitchens are already causing unpleasant odours to waft over the neighbouring rural properties more seats make more smells. The filters on the existing extracts need upgrading and screening from view to maintain the residential amenity. These items should be reinforced in any change to the planning consents! This development has not been done with sympathy to the location and neighbours should only be granted with strict conditions to bring things in line with best practice and considerate operations*
- *The café originally opened with 50 covers but in early Autumn the level of odour and noise greatly increased so much that I was prompted to visit the site to investigate the cause and if necessary to complain. The reason for this increase became immediately clear. Despite a restriction being in place, the applicant had adopted approx. 20 additional covers. Therefore the applicant’s non compliance of the existing restrictions has simply proven, beyond any doubt, that in increase in the number of covers greatly affects the residential amenity in a detrimental way. Increase level of noise and particularly odour noticed in the autumn will be significantly more during the summer months as the whole side of the café has opening glass doors, which are always open in fine weather. No amount of extraction will contain this and the prevailing wind is in our direction*
- *The reasons for the condition have not altered and bearing in mind this decision was only made several months ago, there are no grounds for lifting this restriction in this regard*
- *The applicant state that there are particular points of difference between themselves and their competition such as fish and chips on a Friday, Sunday lunches and a constantly changing menu of daily specials but these are not points of difference at all, at the local Public House also offers the same.*
- *Sam Turners do not serve a very different customer base. Their customers frequent their establishment “to spend of few hours and eat out as something to do because they are nice places to go”. This is exactly the same reason customers frequent other local establishments.*

- *They have created a rural restaurant destination and not a facility to complement what they claim to be their core business of farm and garden supplies, garden machinery and country clothing. This type of restaurant was not their intention as put forward in their original planning application and no matter how lucrative, was not the basis on which or in the spirit of the original planning application being granted*

Consultee Responses

The Council's Principal Environmental Health Officer (Commercial) has raised no objections

The Council's Highways Engineer has raised no objections

PLANNING ISSUES

The main issue here to consider is whether or not the proposed increase in covers would have an adverse impact upon residential amenity and safeguard the viability and vitality of other local shops and services, which are the reasons for the imposition of the planning condition.

Planning Policy

The National Planning Policy Framework 2012 (NPPF) has come into force since the planning permission for the garden centre was approved in 2012. The NPPF states that the planning system should do everything it can to support sustainable economic growth. It also states that planning should support rural economic growth in order to create jobs and prosperity. To support a strong rural economy, planning should support the expansion of all types of business and enterprise in rural areas.

The NPPF also states that planning should promote the retention and development of local services and community facilities in villages, such as local shops, meeting places and public houses.

However, the NPPF does not change the statutory status of the development plan as the starting point of decision making and proposals which accord with an up to date local plan should be approved and developments that conflict with the plan should be refused unless other material considerations indicate otherwise.

Policies C7 and C9 of the Core Strategy seek to ensure that the viability and vitality of Darlington Town Centre and its District and Local Centres are safeguarded and enhanced.

Policy CS16 of the Core Strategy states that new development should protect and have no detrimental impact on the environment, general amenity and the health and safety of the community.

Impact upon the Viability and Vitality of other Local Shops and Services.

The café within the garden centre serves food within modern, contemporary surroundings which has a footprint of 93 square metres (excluding the kitchen and servery) within a building with an overall footprint of 1050 square metres

Local services include a farm shop and coffee shop at Piercebridge Farm, which was granted approval in 2000 subject to a planning condition that the goods sold from the shop shall be

limited to farm produced food stuffs only and the use is run in conjunction with the operation of the Farm. In 2008 planning permission was granted for a change of use of one of the other farm buildings to a Post Office.

When determining the application for the garden centre it was considered that the dining experience offered there was sufficiently different to that offered at other outlets and that by virtue of its size, the café would not undermine the other local services and that it would complement existing services by increasing the range of facilities and services currently available in the locality. However, Officers considered that in order to achieve this objective, it was appropriate to impose the conditions restricting the number of covers, the hours of operation and also that no external café areas could be created.

The applicant has stated that as the business has grown and the number of customers to the site has increased, there is a demand for further seating in the café.

The applicant has advised Officers that based on their total sales from 1st April 2013 until the end of January 2014, the various aspects of their business have contributed to the overall turnover in the following ways:

- Cafe 13%
- Garden Machinery 13%
- Clothing Dept 10%
- Plants 16%
- Farm Supplies 10%
- Other garden products 26%
- Other Misc 12%

The applicant has commented *“If in the next year the turnover of the store did not increase at all except in the cafe because of the extra seating calculated on a pro-rata basis, the percentage of cafe sales as part of the turnover as a whole would only rise to 18%.*

If in the next year the turnover of the store increased by just 10% and the cafe also increased on a pro-rata basis because of the extra seating the percentage of cafe sales as part of the whole business would be just 12%.

Obviously it is impossible to know what will happen in the coming year. As a business we have planned for 10% growth in our 2nd full year of trading but this will obviously be affected by the closure of the A67, we still expect significant growth however”

The proposal would not require any physical enlargement of the existing café area and the increase in covers would occur by placing further seating within the existing area.

When considering the original application, there was an initial concern over the café having more than 50 covers but having considered this proposal and all material considerations, Officers believe that the proposed increase would not adversely impact upon local services, that the café would remain an ancillary use to the garden centre and it would continue to complement the existing services in the local area.

One of the matters raised by the objectors relates to the methods of advertising for the centre as the various signs clearly inform patrons of the existence of the café, as well as the other aspects

of the business. The Local Planning Authority does not have control over the wording of an advertising sign, but whilst the café is being clearly advertised, the main planning consideration is how the café is operated.

Residential Amenity

The café has an external sliding door which opens out onto a hard standing area used for the display of goods. This door can be kept open during warmer weather. The other openings from the café onto this display area are a pedestrian door which shuts behind patrons once they have passed through and a window which is permanently shut.

The proposal would not result in a need to increase the amount of plant on the building and as previously stated the hours of operation would not increase. The condition on the original planning permission that there can be no external café area would remain in force.

There are residential properties on the north boundary (The Sidings); the east boundary (Juniper House) and on the south west boundary (West View). Station House is located to the north east of the application site on the opposite side of the B6275.

The display area, which can be accessed from the café, has a close boarded fence to the north (supplemented by a belt of trees and a further boundary fence within the garden of The Sidings) and a single storey glazed greenhouse to the east, which all help to screen the glazed openings into the café area from the neighbouring dwellings. Juniper House is approximately 77m to the east from the café area and The Sidings is approximately 50m to the north east but the garden of this property does share the north boundary with the application site.

The Council's Environmental Health Officer has also raised no objections to the proposal. Whilst the objections raise concerns about odour, Environmental Health have no records of any complaints about such matters.

Having considered all the relevant issues, it is the opinion of Officers that the proposed increase in covers by a further twenty seats within this internal café area would not raise significant residential amenity issues, including during summer months when the central sliding door would be open, that would justify a reason to recommend the application for refusal.

Highway Matters

The 2012 application resulted in a need for additional car parking to accommodate the increase in trips in association with the new garden centre and associated uses. A revised Site Layout Plan has been submitted which shows that 30 additional spaces would be provided within the site and the spaces would cater for the additional staff numbers and the additional 20 covers which equates to 1 car parking space per 2 seats based on the Tees Valley Design Guidance.

A condition would be imposed to secure the implementation of the car parking spaces prior to the increase in covers taking place.

The Council's Highways Engineer has no objections to the proposed 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

It is considered the proposed increase in covers within the existing café area would not impact upon the viability and vitality of the existing local services within the area. The café would still be an ancillary use to the primary operation of the site as a retail garden centre. It is also considered that the proposal would not result in adverse amenity conditions for the neighbouring dwellings and adequate parking spaces can be created within the site to facilitate the increase in numbers of both customers and staff. The proposal would accord with the relevant national and local development plan policies

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 – Implementation Limit (Three Years)
2. The additional car parking spaces and delivery turning area, as shown on Drawing No 2011:50/25 Rev C, shall be fully implemented prior to any increase in covers within the café area
REASON: To ensure sufficient parking spaces are available to cater for patrons and staff
3. B5 – Detailed Drawings (Accordance with Plan)

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

National Planning Policy Framework 2012

Darlington Core Strategy Development Plan Document 2011

Policy CS1 - Darlington's Sub Regional Role and Locational Strategy

Policy CS7: The Town Centre

Policy CS9: District and Local Centres and Local Shops and Services

Policy CS16: Protecting Environmental Resources, Human Health and Safety