

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 2nd July 2008

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APPLICATION REF. NO: 08/00349/FUL

STATUTORY DECISION DATE: 16th June 2008

WARD/PARISH: HURWORTH

**LOCATION: The Otter and Fish, 1 Strait Lane, Hurworth,
Darlington**

**DESCRIPTION: Installation of kitchen extract with wooden covering
structure**

APPLICANT: PUNCH TAVERNS

APPLICATION AND SITE DESCRIPTION

The application site consists of an existing public house situated on the corner of Strait Lane and Church Row within the Hurworth Conservation Area. The public house is situated close to residential properties on Strait Lane and Church Row.

Planning permission was granted for an extension to the property in late 2006. As a result of this extension, there was a requirement for extract ventilation to the then undefined kitchen area. The equipment was installed after consultation with Environmental Health on the specifications. However, due to a discrepancy on the plan supplied to the Planning Section, resulting in the equipment being shown incorrectly, the equipment was installed without the benefit of planning permission. An application in late 2007, which sought to regularise the development, was refused under the Council's delegated powers, on the grounds of visual amenity.

This application seeks to regularise the development, with the addition of a timber structure fitted around the equipment, in an attempt to address the previous reasons for refusal.

A Design and Access Statement has been submitted, as required by the Regulations.

PLANNING HISTORY

The site has a lengthy planning history, however only the most recent and relevant cases are included for the purposes of this application:

In July 1997 planning permission was granted for the erection of a single storey extension to provide improved facilities including enlarged kitchen, crate store / utility and boiler room.

In September 2006 planning permission was granted for the refurbishment of the existing public house including rear extension, decking and screened beer garden, disabled access and internal alterations.

In September 2006 advertisement consent was granted for the display of lettering to front, side and rear, 1 No. Projecting sign and 2 No. Wall mounted amenity boards, externally illuminated by various lighting units and entrance lantern.

In December 2007 planning permission was refused for the installation of ventilation ducts to kitchen extract (Retrospective).

PLANNING POLICY BACKGROUND

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

E29 – The Setting of New Development

E30 – The Protection of Listed Buildings and Their Settings

H15 – The Amenity of Residential Areas

RESULTS OF CONSULTATION AND PUBLICITY

Three letters of objection have been received from local residents, raising the following concerns: -

- *The equipment has been installed for a long period of time;*
- *Despite the continuing and sometimes nauseating smells emanating from the extracts, DBC Environmental Health find this acceptable – they have yet to provide evidence that they have reportedly gathered / monitored; The nauseating smells will remain as there are no proposals to either rectify the filtration system or move it further away from our gardens; The extractor fan gives a deep vibrating sound that due to its proximity to the house can be heard in every room, even with the doors closed; The noise in the garden is even worse; The extractor fan that has been installed is not the system that was requested by EHO. In December 2006 EHO ruled that the system should be replaced by a micro filtration system that would be of a similar size to the previous unit – initially the applicant accepted this proposal – however on Jane Cuttings departure from the EHO the applicant reversed this agreement as the cost was too excessive – instead the applicant opted for a system that is 5 times the size and 1/5 of the cost; The newly installed ventilation unit was meant to reduce the noise and odour levels we were experiencing around the clock from the previous unit, first installed back in October 2006 – however there has been no noticeable decrease of either and as time passes we have already detected that the sound and odour emissions have increased with age since the units installation on the 13th August 2007 – the wooden structure would have no physical impact on reducing either of these problems as the emission chimney will still be exposed and in the same location;*
- *The extract ducting remains an immense eyesore; The refusal dated 18th December 2007 states that the ventilation duct was refused on the grounds of size and location – this current proposal actually worsens the situation making it substantially larger; The garden shed approach is not in keeping with the surrounding building; The proposal is not in keeping with the character and appearance of the Hurworth Conservation Area;*
- *The extractor fan currently runs parallel with my garden along the flat roof of the pub approximately 25cm from the boundary – this distance reduces with the addition of the wooden covering; As the extract currently stands it is 3.2m above ground level at its lowest level and 3.8m at the chimney top – my garden is only 3.5m wide thus the*

combined height of the unit and the southern boundary is greater than the width of my garden and looks atrocious – the size will only increase with the additional wooden structure and given it is already the dominant feature of my garden at its current size it will only drastically reduce the amount of natural light further, making what was once a pleasant garden pre-extract unit, an even bigger eye sore; The extractor fan is located 3 metres away from the rear of my house – it is the main view from the kitchen door that adjoins the garden – it is also the dominant feature from both upstairs windows as it is at eye level and only 3 metres away;

- *I would like to reiterate the impact that this extractor fan, along with the cooling units has had on the local residents standard of living; It is so bad it has gone on for so long that it is now having serious repercussions on our every day lives and our health – the last 18 months have been exceptionally stressful, due to the amount of work to get these issues sorted and our inability to relax in our own homes because of the nuisances caused by the applicant;*
- *Have other shapes and sizes been considered? What are the design requirements for a commercial ventilation unit located tight within a peaceful residential area? Has the relocation of the unit been considered? How many air changes per hour is a ventilation unit required to do and how many is the unit in question doing? Does the ducting have to be external or is there any possibility of it being run internally as is often carried out in situations where visual impacts have to be considered? We would also ask that a timer switch is fitted to any ventilation unit installed in order to counteract human error given that on numerous occasions the unit is left switched off all day and night even though the pub is closed; What criteria constitutes a statutory nuisance if all the adverse evidence presented from the local residents is not deemed severe enough to classify?*

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

Hurworth Parish Council has been consulted and has objected to the application on the grounds of impact and appearance to neighbouring properties.

PLANNING ISSUES

The principal issues to be considered in the determination of this application are:

- Planning Policy
- Effects on visual amenity and the character or appearance of the Hurworth Conservation Area
- Effects on residential amenity.

Planning Policy

Policy E38 (Alterations to Business Premises) encourages alterations to business premises that do not have a material adverse effect on the character and appearance of the building, or the street scene in which it is located. It goes on to outline a number of criteria against which this can be assessed, mainly relating to shop fronts, signage and security measures. Policy E48 (Noise generating / Polluting development) protects residential or pollution sensitive areas from development, which, by reason of the emission of noise or other pollutant, would be materially harmful to amenity.

Policy H15 (The Amenity of Residential Areas) seeks to protect areas with a predominant residential character from, amongst other things, the effects of intensification or enlargement of existing non-residential uses. The reasoned justification states that residents should be able to expect a safe, secure and attractive residential environment. These issues will be considered in more detail in the following sections of this report.

Effects on visual amenity and the character or appearance of the Hurworth Conservation Area

Although the wooden structure is an attempt to mask the industrial appearance of the existing equipment, it is not considered that it addresses these concerns and is instead in itself, an alien feature on the building, detrimental to the visual appearance of the locality and thereby the character and appearance of the Hurworth Conservation Area.

Effects on residential amenity

There are considered to be two principal effects in respect of amenity that flow from the proposed development. Firstly, the addition of the wooden structure, to the existing equipment, exacerbates the impact and the obtrusive nature of the development when viewed from the surrounding dwellings. As above, rather than address the previous reasons for refusal, the addition is considered to a degree to increase the magnitude of its impact.

Secondly, the objections indicate a degree of external noise emanating from the equipment that is reported to have a significantly harmful impact on the quality of life of residents. As the previous reason for refusal did not include the grounds of noise impact, and given the relatively recent installation of the equipment, it would seem unreasonable for this issue to be raised as one that would justify refusal of planning permission in respect of the equipment itself. It would however appear reasonable to consider the issue of noise once the wooden structure had been installed, and taking into account the efficacy of the equipment over the time it has been in situ. The Council's Environmental Health Officer has been consulted and has again raised no objections on health grounds, subject to a planning condition to secure submission and agreement of a scheme to insulate against additional noise or reverberation from the installation of the covering structure.

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 proposed development is considered to be an incongruous addition to the existing building by reason of its size and position, detrimental to the amenity of local residents with a harmful impact on the enjoyment of small areas of adjoining private amenity space and a negative impact on the character and appearance of the Hurworth Conservation Area. The proposal thereby fails to comply with the criteria set out in Policy E38 (Alterations to Business Premises), Policy H15 (The Amenity of Residential Areas) and national guidance contained within PPG15: Planning and the Historic Environment (1994).

RECOMMENDATION

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASON:

The proposed development is considered to be an incongruous addition to the existing building by reason of its size and position, detrimental to the visual amenity of local residents with a harmful impact on the enjoyment of small areas of adjoining private amenity space and a negative impact on the character and appearance of the Hurworth Conservation Area. The proposal thereby fails to comply with the criteria set out in Policy E38 (Alterations to Business Premises), Policy H15 (The Amenity of Residential Areas) and national guidance contained within PPG15: Planning and the Historic Environment (1994).