

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 22nd October 2008

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APPLICATION REF. NO: 08/00603/FUL

STATUTORY DECISION DATE: 12th September 2008

WARD/PARISH: HURWORTH

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

**DESCRIPTION: Installation of kitchen extract flue (Retrospective)
(Additional information received 5.9.08)**

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. Members will recall that a further application to retain the equipment was refused at the Planning Committee of 2nd July 2008. An enforcement notice has since been issued, requiring that the kitchen extract flue is removed, giving the proprietor a period of three months to do this, during which time negotiations can take place for an acceptable means of ventilation.

In the intervening period, the applicant has submitted an application to change the position of the existing kitchen extract flue by turning it 90 degrees, in the hope that this satisfactorily resolves concerns previously raised by Members. Officers sought internal legal advice and were advised that this application should undergo due process and be determined in accordance with local and national policy, as it is considered to be materially different from the previous application.

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).

In July 2008 planning permission was refused for the installation of kitchen extract with wooden covering structure (Part retrospective).

PLANNING POLICY BACKGROUND

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

E29 – The Setting of New Development
E38 – Alterations to Business Premises
E48 – Noise Generating / Polluting Development
H15 – The Amenity of Residential Areas

The following national policy guidance is relevant: -

Planning Policy Statement 1: Delivering Sustainable Development (2005)
Planning Policy Guidance 15: Planning and the Historic Environment (1994)

RESULTS OF CONSULTATION AND PUBLICITY

There have been no objections received as a result of the publicity exercise undertaken. 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 made no comments on the proposed development.

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, inter alia, 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

The equipment that has been installed raises no immediate street scene issues as it lies to the rear of the building, within the car park area and closer to the residential properties than the side elevation of the building. However, it can be seen by the properties surrounding the building and visitors entering the car park. It is considered that the proposal constitutes an incongruous addition to the rear of the building that is out of keeping with the building and is inappropriate in this largely residential area. The properties along Strait Lane in particular have small rear gardens and the equipment, by way of its size and location on the building, is considered to dominate and tower over these small areas of amenity space to an unacceptable degree. It is not considered that the repositioning of the equipment sufficiently overcomes these concerns, as the equipment is of the same size and appearance and would still be readily visible from the neighbouring properties, and to the rear of the building, to an unacceptable degree. In addition, it is considered that, for the above reasons, the equipment has a negative impact on the character or appearance of the Hurworth Conservation Area.

Effects on residential amenity

The Council's Environmental Health Officer has been consulted and has raised no objections on health grounds.

Following discussions with officers, further information was submitted to provide background as to the consideration of other options that had been explored to satisfactorily vent the existing kitchen premises. This information consisted of five options for ventilating the premises. However, these largely consisted of the existing installation, and the previously refused application with the wooden timber covering structure. It also included a carbon filter flue, which the applicant claims would be as large as the existing and would also be noisier. However the applicant has provided no noise information or definitive visuals to confirm this and therefore it is not considered that this has been satisfactorily investigated. It is acknowledged that the solution may result in the applicant providing a more costly system, however this cannot be taken into account in this determination. In light of the concerns raised in the preceding sections of this report, it is considered that the current proposal is unacceptable and that further investigation into other options should be carried out in order to come to an acceptable solution.

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 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).