

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 2 April 2008**

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<b>APPLICATION REF. NO:</b>	<b>08/00078/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>28 March 2008</b>
<b>WARD/PARISH:</b>	<b>HAUGHTON EAST</b>
<b>LOCATION:</b>	<b>The Grey Horse, 39 Haughton Green, Darlington, DL1 2DD</b>
<b>DESCRIPTION:</b>	<b>Construction of smoking shelter to rear elevation</b>
<b>APPLICANT:</b>	<b>CAMERONS BREWERY</b>

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**APPLICATION AND SITE DESCRIPTION**

This site consists of a 19th Century Public House building located on the junction of Rose Lane with Haughton Green within the Haughton Village Conservation Area. The rear of the building is a modern addition that faces onto the pub car park. Four dwellings on the east side of Rose Lane have front elevations that face, across the lane, onto the pub car park

This is a retrospective application that seeks to regularise the erection of a smokers' shelter positioned onto the rear of the building facing onto the car park. Dimensions of this wooden frame canopy are 6m width x 1.8m deep x 2.8m high to the shallow mono-pitch perspex roof. Construction is in timber posts and railings and the shelter is open on three sides and away from window and door openings in accordance with the appropriate environmental health regulations on the provision of such shelters.

Front elevations of nearby dwellings on Rose lane are positioned in excess of 10 metres from the structure across the lane

**PLANNING HISTORY**

01/00632/FUL Ground floor and first floor extensions to Public House and re-organisation of the car park to provide 24 parking spaces - GRANTED planning permission 8 November 2001.

**PLANNING POLICY BACKGROUND**

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

E38 – Alterations to Business Premises  
H15 – The Amenity of Residential Areas

Planning Policy Guidance No. 15 Planning and the Historic Environment.

## RESULTS OF CONSULTATION AND PUBLICITY

Three letters have been received from local residents objecting to the proposal. In synopsis, the reasons for objection can be listed as follows:

- *The shelter has resulted in an increase in noise pollution which detracts from the residential amenities enjoyed by local residents;*
- *Smoking is an anti-social habit which should be taken somewhere else;*
- *The smoking shelter does not enhance the status of the conservation area.*

## PLANNING ISSUES

In terms of its scale and appearance, the simple design of the structure has a subsidiary presence on the rear elevation of the pub building and, in the opinion of the Conservation Officer, has some merit in that it appears attractive and improves the character of a modern part of the building within the conservation area. The structure is open on three side and is positioned away from window and door openings in compliance with environmental health regulations pertaining to the provision of these shelters.

Since July of last year, when legislation on smoking in enclosed public places came into force, customers of the pub have used the area to the rear of the pub to smoke outside and there is no impediment in planning regulations to prevent this lawful practice.

This structure provides some shelter from the elements for customers of the public house who would be obliged in any case to leave the building whilst smoking. In terms of its design and scale the proposal would satisfy both the requirements of Policy E38 of the Local Plan and guidance contained within PPG15 in respect of providing an additional building required by the business which would have no adverse material effect upon the character and appearance of the building located within the conservation area. The Council's Healthy Workplace Officer has been consulted and raised no objection.

The nearest dwellings, that front directly onto the pavement, are located some ten metres away from the shelter across a public highway. The site has a historic use as a public house. Given that the rear of the pub is already used by smokers and other customers who choose to drink outside, it is unlikely that the addition of the shelter in itself would have generated an increase in disturbance to nearby residents. The business is free to open its rear curtilage to customers and, indeed, during the summer month may choose to place tables and chairs outside without recourse to planning consent. Any deficiency, if any, in the management of these licensed premises is properly the concern of the licensing magistrates or possibly the police and would not come within the remit of the Planning Acts. The structure has a neutral presence in relation to the continued use of the rear curtilage of this public house and would not, in itself, result in the generation of additional noise or disturbance to nearby residents. As such, the proposal would comply with the requirements of Policy H15 of the Local Plan in respect of not resulting in the detriment to residential amenities to nearby residents.

## SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

## **CONCLUSION**

Some of the letters of objection display a moral bias against the practice of smoking and the use of the rear curtilage of the pub that are not planning considerations. The proposal is unlikely, in itself, to generate additional use of the outside of the premises but provide a rudimentary shelter to those customers that already do so. The proposed smoking shelter located within the rear curtilage of the Grey Horse Public House is of a form of development commensurate with the use of the building as a public house and of a design that maintains the character of the building located within the Haughton Village Conservation Area that complies with the requirements of Policies H15 (Amenity of Residential Areas) and E38 (Alterations to Business Premises) of the Borough of Darlington Local Plan 1997.

## **RECOMMENDATION**

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:-

- 1) A3 Implementation Limit (Three Years)
- 2) B5 Detailed Drawings (Accordance with Plan)
- 3) B4 Details of Materials (Samples)

## **SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION**

The application site is located in an area of existing commercial use. The design and layout of the development is considered acceptable and the shelter will not give rise to conditions prejudicial to amenity or highway safety. The proposed development accords with the relevant policy in the adopted development plan set out below:

### **Borough of Darlington Local Plan 1997**

H15 - The Amenity of Residential Areas

E38 - Alterations to Business Premises