

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 4 June 2008**

**Page**

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<b>APPLICATION REF. NO:</b>	<b>08/00353/CU</b>
<b>STATUTORY DECISION DATE:</b>	<b>13 June 2008</b>
<b>WARD/PARISH:</b>	<b>NORTHGATE</b>
<b>LOCATION:</b>	<b>31-33 Gladstone Street, DARLINGTON, DL3 6JU</b>
<b>DESCRIPTION:</b>	<b>Change of use of ground floor to takeaway and part of first floor to food preparation</b>
<b>APPLICANT:</b>	<b>LAND TEAM NORTHERN LIMITED</b>

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**APPLICATION AND SITE DESCRIPTION**

The proposal involves the use of the ground floor as a takeaway with a seating area and service counter and the formation of a preparation room at the first floor level.

The existing premises is a vacant office building near to the junction of Gladstone Street and Northgate. The ground floor is a narrow building with the upper floors extending above the neighbouring units. The surrounding area is predominately in commercial use with an Italian takeaway to the east; a taxi centre to the west and a nightclub further west. Central House and North Lodge Park lie opposite the application site. The site lies within the Northgate Conservation Area.

**PLANNING HISTORY**

The most recent and relevant entry is:

06/01083/CU - In March 2007 planning permission was GRANTED for a change of use from offices (B1) to licensed restaurant (A3).

**PLANNING POLICY BACKGROUND**

The relevant policies within the Borough of Darlington Local Plan are S18 (Food and Drink Uses Outside the Town Centre) along with EP12 (Office Development Limits)

**RESULTS OF CONSULTATION AND PUBLICITY**

One letter of objection has been received raising the following concerns:

- *There are already 7 fast food shops around the area and I understand some of them have serious financial problems and another fast food shop will cause few of these to close down;*

- *My other reason is problems with drunks, which we have been facing causing some damage to our shop and surely another fast food next to us will make the situation worse. I am sure Darlington Police will provide you with details of disorder after night club;*

## **PLANNING ISSUES**

The applicant stated that the building has been marketed for over four years as B1 offices but without success. Planning permission already exists for the use of the whole of the building as a restaurant (see Planning History) but due to the current economic situation, the applicant wishes to implement a takeaway use in the short term with the long-term view of implementing the restaurant use at first floor level whilst retaining a takeaway element on the ground floor.

The main issue to consider is whether or not the proposed change of use complies with Policy S18 (Food and Drink Uses Outside the Town Centre) and EP12 (Office Development Limits) of the Local Plan.

Policy S18 permits takeaway uses in areas of retail, employment or leisure/recreation which are easily accessible by foot, cycle and public transport, and provided that there will be no adverse impact on residential amenities or on highway safety.

The application is readily accessible by various modes of transport and the Council's Traffic Section has raised no highway objections to the application. This section of Gladstone Street is predominately commercial with very few residential properties and therefore the proposal would not raise any residential amenity issues. The Public Protection Unit have raised no objections subject the imposition of planning conditions relating to refuse storage, the control of fumes and ventilation equipment.

The application site is located within the Office Development Limits as defined by Policy EP12. The proposed change of use would result in the loss of a B1 office use but Policy EP12 does not seek to retain office uses or oppose the change of use of offices to other uses.

No external alterations to the building are proposed and therefore the development would not have a detrimental impact upon the character and appearance of the conservation area.

### **Other Matters**

One of the reasons for concern is the amount of existing takeaway uses in the area and that introduction of another will potentially lead to the closure of others. Members will be aware that the issue of competition between commercial businesses is not a planning matter.

Following the receipt of the objection letter, the Architectural Liaison Officer from Durham Constabulary has been consulted and any comments received will be mentioned verbally to Members at the Committee.

## **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. As indicated above the views of the Police will be reported verbally to Members at the meeting.

**CONCLUSION**

The proposed change of use is considered to be acceptable in this location by virtue of the fact that it would not have an adverse impact on the character or amenity of the area. The proposal does not raise any issues in respect of highway safety or crime prevention. The proposal is considered to comply with polices S18 (Food and Drink Uses Outside the Town Centre) along with EP12 (Office Development Limits) in the development plan.

**RECOMMENDATION**

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

- 1) A3 Implementation Limit (Three Years)
- 2) D4 Refuse Storage (Details to be Submitted)
- 3) D18 Control of Fumes
- 4) D19 Ventilation Equipment (Details Required)
- 5) Prior to the any plant and ventilation equipment first being used the applicant is required to test the equipment for noise in the presence of an Officer from the Local Planning Authority and thereafter the equipment shall only be used once the Local Planning Authority has given formal consent in writing

REASON - In the interests of residential amenity.

- 6) B5 Detailed Drawings (Accordance with Plan)
- 7) Prior to any ventilation/extraction equipment being first used, it shall be tested for noise in the presence of the Council's Environmental Health officers. Should the equipment generate a noise issue the appropriate mitigation measures shall be put in place to the satisfaction of the Local Authority, before the use of the premises is commenced.

REASON - To ensure the equipment operates without the unacceptable creation of noise.

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

The proposed change of use is considered to be acceptable in this location by virtue of the fact that it would not have an adverse impact on the character or amenity of the area. The proposal does not raise any issues in respect of highway safety or crime prevention. The proposal is considered to comply with polices S18 (Food and Drink Uses Outside the Town Centre) along with EP12 (Office Development Limits) in the development plan.