



Appeal Decision

Site visit made on 19 July 2010

by **D R Cullingford BA MPhil MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
5 August 2010

Appeal Ref: APP/N1350/A/10/2126793

Tanfastic, 147 Neasham Road, Darlington, DL1 4BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is by Mr Saleem Hakim against the decision of the Darlington Borough Council.
- The application (ref: 09/00789/CU and dated 10 November 2009) was refused by notice dated 15 August 2010.
- The development is described as a 'change of use of first floor and part of ground floor from tanning studio to (A3) restaurant'.

Decision

1. For the reasons given below, and in exercise of the powers transferred to me, I dismiss the appeal.

Reasons

2. The appeal property is a stucco-decorated, Empire-styled, corner commercial unit (at the corner of Neasham Road and Thirlmere Road) used as a tanning studio; it forms the largest element of a small parade of shops including a café, a chemist and a shuttered hardware store. The parade lies amongst streets of mainly small terraced dwellings, although modern homes stand opposite behind roadside landscaping. Ghost islands and road markings strictly confine the traffic on Neasham Road to one lane each way, with some space for parking provided alongside the parade, the roadside dwellings and other commercial uses evident here. The proposal would entail altering the layout of the tanning studio on the ground floor to provide a separate entrance (including facilities for the disabled) which would lead to an '80 seater' restaurant and small cocktail bar on the first floor: the restaurant would operate from 18.00hrs to 23.00hrs throughout the week: no parking spaces would be available within the site, but it is stated that there is 'ample rear off-street parking in the adjoining streets'.
3. The Council have carefully assessed the impact of the proposal in relation to residential amenity and highway issues (essentially the provision for parking). In relation to the former they consider that, although the comings and goings of customers (on foot or by car) could have the potential to disturb residents nearby (particularly during the evening), a restaurant would not generate the sort of activity typical of, say, a 'take-away' and, consequently, that the likely noise and disturbance would not warrant withholding planning permission. In any case, they point out there is an established fish and chip shop on the opposite side of Thirlmere Road and whatever noise might emanate from the

proposed restaurant would almost certainly be subsumed amongst the sounds associated with that existing use. Although I note that the operating hours of the café in this parade is restricted to between 08.00hrs and 18.00hrs largely because of the potential disturbance to neighbouring residents, I agree that, on its own, the additional noise likely to emanate from the proposed restaurant would not be especially noticeable here.

4. In relation to the parking arrangements, the Council are concerned that the lack of any off-street provision, together with the limited provision outside the appeal property, would be likely to lead to the parking of vehicles in the surrounding streets, thereby causing unnecessary hazards and inconvenience to other road users and impairing the amenity of nearby residents. It is claimed that the scheme would contravene 'saved' policies H15, S18 and T24. That is the issue on which this appeal turns.
5. I read that the maximum parking requirement for a restaurant of this size would be about 40 spaces. I saw that there would be barely space for half a dozen vehicles to park on the streets outside the appeal premises. Although I accept that some customers would be local or might use other forms of transport than the private car (including the buses along Neasham Road), and although I agree that that the restaurant would not always be full, I consider that the likely shortfall in provision would be substantial enough to increase significantly the demand for parking in the surrounding streets. The restaurant would be in an 'out-of-centre' location necessitating travel by many customers, particularly if the venture were to be reasonably successful. But, the 'adjoining' terraced streets already accommodate residents' cars. And, in the absence of a parking survey, it is likely that space for parking would be at something of a premium during the evenings, when residents would be home and the restaurant would be at its busiest. As a result, I think that the proposal would exacerbate the competition for on-street parking spaces and so add to the inconvenience of all concerned, including residents and their visitors. I also think that the additional competition for parking places in these residential streets combined with the consequent noise of vehicles manoeuvring in and out of awkward spaces or the banging of car doors immediately outside the front of these terraced dwellings during the evening would impair residential amenity here.
6. In addition, the on-street parking likely to be generated by the proposal would add to traffic manoeuvres on Neasham Road. Such manoeuvres could, all too easily, interrupt the free flow of traffic while drivers negotiated their entry into, or exit from, awkward parking spaces outside the appeal property. And, the scheme would entail more people turning into or out of the side streets in search of places to leave their vehicles for the hour or two in which they would enjoy their meal. I think that such manoeuvres would add to the hazards faced by road users.
7. I have considered all the other matters raised. I agree that policy S18 is a 'permissive' policy. But it includes the proviso that restaurants outside the town centre should not adversely affect residential amenities or highway safety. I think that this scheme would fail those requirements. I do not agree that policy H15 is irrelevant here. In my view, it is appropriately cited in the reason for refusal because the combined effect of the additional competition for parking places and the consequent noise of manoeuvring vehicles could

reasonably be taken to impair residential amenity. And, although policy T24 quite properly does not render parking standards mandatory, it seems to me that the potential shortfall here would be too great to be encompassed by the flexibility that might reasonably be applied. Hence, I find neither those, nor any other matter raised, sufficiently compelling to alter my conclusion that this appeal should be dismissed.



INSPECTOR

