

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 11 February 2015

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| APPLICATION REF. NO: | 14/01163/FUL |
| STATUTORY DECISION DATE: | 9 January 2015 |
| WARD/PARISH: | NORTHGATE |
| LOCATION: | 155 Corporation Road |
| DESCRIPTION: | Change of use of single dwelling (Class C3) to hot food takeaway (A5) with residential flat above (revised hours of operation and amended plans received 29 January 2015) (revised description) |
| APPLICANT: | Mr Udin |

APPLICATION AND SITE DESCRIPTION

The existing property is on the end of a terrace of dwellings in close proximity to the junction of Corporation Road and Salisbury Terrace. Planning permission (see Planning History) was granted in 2003 to convert the property to a single dwelling which involved internal alterations only and the retained shop front. The Council's taxation records indicate that this planning permission was implemented and therefore the authorised use of the premises is Class C3 (Dwellinghouse).

The proposal involves a change of use of the premises to a hot food takeaway (Class A5) on the ground floor with a self-contained flat above. The flat would contain two bedrooms, a sitting room, a kitchen and a wc. A disabled access ramp would be provided at the front entrance to the ground floor takeaway and the first floor flat would be accessed via an existing side entrance off a lane that runs alongside the premises.

The type of hot food takeaway is not known at this time but the proposed hours of operation would be 17:00 – 21:00 Monday to Saturday and 17:00 – 19:00 Sundays and Bank Holidays.

The surrounding area is predominately residential but there are some commercial premises at this end of Corporation Road/Salisbury Terrace namely a Sainsburys Local store, butchers, a launderette, general dealers, a fish and chip shop and a hairdresser.

PLANNING HISTORY

03/01041/CU In December 2013 planning permission was GRANTED for a change of use to a single dwelling

PLANNING POLICY BACKGROUND

The relevant planning policies are:

Darlington Core Strategy Development Plan Document 2011

CS2 – Achieving High Quality Sustainable Design

CS16 – Protecting Environmental Resources, Human Health and Safety

RESULTS OF CONSULTATION AND PUBLICITY

Five letters of objection were received to the original proposal and the concerns can be summarised as follows:

- *The proposal will have an adverse impact on the living standards currently enjoyed by neighbours;*
- *There are already a lot of comings and goings with the shop opposite (Sainsburys Local) and I feel opening a takeaway will only increase this*
- *My tenants (at No 153 Corporation Road) have been there for 5 years and are happily settled there and I believe opening a takeaway will have a detrimental impact on their lives with the extra noise etc.*
- *The proposed outlet is situated at a bus stop*
- *There is a fish and chip shop within 50 yards and another fish shop in the next street. In Northgate at the end of the street are a large number of takeaways and there is a large supermarket which is open from 6am to 11pm. I do not think another outlet is necessary as we are assaulted each day from 7am with large delivery wagons and do not want more. Our peace is disturbed all and every day and I do not feel that we should suffer further. If granted, I feel that it's opening an intolerable impediment to our environment and living.*
- *There are no parking facilities at all which would mean double yellow line stopping to the detriment of buses*
- *The area around Sainsbury's Corporation Road is very dangerous. There is a bus stop outside 150 Corporation Road, opposite Sainsbury's shop, and it's well used cash point. The double yellow lines outside Sainsburys shop/cashpoint are routinely ignored. A couple of yards from the bus stop is the back lane to Salisbury Terrace which is used by traffic which can emerge onto this congested junction. Ten yards from the bus stop is the junction with Salisbury Terrace which buses turn right into and there may also be a bus coming up Salisbury Terrace to turn left into Corporation Road at the same time. There are often vehicles parked on Salisbury Terrace on double yellow lines opposite the Corporation Road junction, using butchers and the takeaway shop and launderette. Cars emerge onto the junction from Warren Street. All vehicles emerging onto Salisbury Terrace have impaired vision from all the parked cars on Salisbury Terrace both ways, which is narrowed enough to only allow one vehicle passage at a time, so you also get vehicles waiting on the junction to allow other cars to pass. This all impacts on Corporation Road outside the proposed takeaway. Almost opposite the bus stop outside 150 Corporation Road is Barningham Street junction which has lowered disabled crossings on both sides opposite the Sainsbury's shop entrance which is on the corner of Corporation Road and Barningham Street. At busy times the double yellows and disabled crossing points are routinely ignored making pedestrian crossing visibility very dangerous. Not only because of the parked cars but cars pulling in and turning out of Barningham Street. Add to the mix the odd vehicle going far too fast. The approach to the junction of Corporation Road and Salisbury Terrace can be very congested and dangerous especially for pedestrians at busy times. This area is well used by children*

and families going to and coming home from school (Both Corporation Road and also Reid Street), from people going to work and stopping off for food. Money and then in the early evening before people settle down for the night. In the winter when it is dark, with poor weather, visibility is poor. Opposite the proposed takeaway/bus stop can be used by large delivery vans for Sainsbury's who also use the back lane opposite the bus stop.

- *Takeaway food shops tend to have long opening hours. They also attract many people from outside the area who will come in cars. Where are they to park safely? This is very evident with the nearby chip shop on Bartlett Street which attracts many cars at times, though the opening times are very restricted around mealtimes 3 or 4 days a week.*
- *The church opposite Sainsbury's is now open again and attracting traffic from its congregation.*
- *The occupants of the many surrounding homes adjacent to the proposed shop will be affected by noise and smells arising from the shop. The takeaway would be surrounded by people's homes and the backyards of Salisbury Terrace, Kingston Street and Chelmsford Street and Corporation Road would be neighbours. If the opening hours are long, the cooking smells will affect people using their backyards, having windows open and having washing out.*
- *People's access to peace and quiet in their homes and backyards will be affected by noise from customer's cars coming and going, possibly at unsocial times. And also of delivery vehicles and vehicles removing waste.*
- *We are inundated with yellow lines which would mean illegal parking on the lines and rear lanes causing blockages*
- *The trading hours of 5pm to 11pm will contribute to an increase in high level of antisocial behaviour already present within the junction. As a result of the antisocial behaviour we (Frydays) have had to reduce our trading hours to minimise the gathering of young youths around the junction that cause nuisance late into the evening*
- *A few yards away from the proposed site there is supported accommodation for the elderly that the Council should take into consideration as an increased in noise and footfall will no doubt cause concerns for the residents of the establishment. Many local residents consist of families and the elderly and have lived in the area for a number of years. The opening of a new takeaway is just going to increase noise pollution along with an increase in traffic*
- *The road is not wide enough to allow vehicles in and out whilst a bus has stopped at the junction and also if there are vehicles parked on both sides of Corporation there are traffic problems already*
- *Residents are going to find it difficult to find a parking space near to their homes due to increased traffic and footfall. There will be fewer parking spaces available in the area and the public will park their vehicles dangerously contributing to double parking in the area which will lead to heavy congestion and cause several accidents occurring at the junction.*
- *Another takeaway opening also only contributes to more litter being on the streets and will have an adverse effect on the surrounding environment.*
- *There is no convenient parking for such a shop as people currently using Sainsburys use the double yellow lines next to Sainsburys or park in the Bus Stop directly outside Nos 147 to 155 Corporation Road, both of which are illegal. There are regularly times when a bus is unable to access or alight from the bus. It is inconceivable to me that a takeaway should be allowed on a road where there is a bus stop immediately outside the premises.*
- *There are currently difficulties with anti-social drivers either visiting Sainsbury's or the ATMs at the side of the shop, driving up with music blaring. Also, there are regular*

instances of loud and abusive customers in the street which also cause noise and I can only see these incidents increasing should planning permission be granted.

- *There have been a number of cases where pedestrians are placed at risk whilst simply crossing the road, not to mention people parking beside the dropped kerbs making it very difficult for pushchair and wheelchair uses.*
- *Litter is already a problem in this area.*

A second objection from one of the local residents with a number of supporting photographs (taken over three days at differing times of the day but between 16:30 to 19:30) has been submitted raising the following concerns:

- *I think this site is unsuitable because of dangers to other road users, and particularly pedestrians, caused by:*
 - a) Heavy traffic which uses Corporation Road as a means of avoiding congestion on the main routes particularly at the proposed opening times;*
 - b) Convergence of a number of road/back lane junctions at the site;*
 - c) A bus stop serving a frequent service outside the shop;*
 - d) The lack of capacity for customers to park their cars;*
 - e) The dangerous conditions created by drivers using the Sainsbury's Supermarket and cashpoint opposite 155. Despite the whole area having double yellow lines they are routinely ignored;*
 - f) Surrounding streets - during the hours of opening are almost at capacity with residents' cars. Also drivers' behaviour when parking to access Sainsbury's shows that they take many risks and ignore the law in order to park as near to the door as possible.*
- *It is difficult to show from a static picture the speed of traffic and the dangers created by drivers which include doing 3 point turns in the main road with parking both sides, reversing into the main flow of traffic, driving too fast and ignoring the needs of pedestrians. A few yards from the shop is the T junction with Salisbury Terrace. This is in effect a single lane street because of parking down one side. This means that traffic can back up to 155 Corporation Road, while cars are waiting to pass each other. Also the turn from Corporation into Salisbury is very tight and this is further complicated by people parking illegally at the junction especially when there are two buses attempting to pass.*

A second objection for another local resident also states:

- *On Friday 23 January 2015 I carried out a vehicle survey covering the no-parking zones between Salisbury Terrace and the Church opposite 147 Corporation Road. Both sides of this area is controlled by double yellow lines and a bus stop. The survey took place between 4.30pm and 9.30pm. In those five hours, 150 vehicles were parked illegally in this area. This averages out to one vehicle being illegally parked every two minutes in spite of there being legal parking places available in Barningham Street. I would suggest that should 155 Corporation Road be turned into a takeaway, there would be even more illegal parking taking place. The shows that the (Council's Highways Engineer) suggestion that "the highway impact to residents should be minimal" is questionable*
- *A further concern is as to where the refuse bins for the proposed takeaway would be positioned. Placing them in the back lane behind Corporation Road would cause*

inconvenience to people who use the lane for vehicular access from the rear to their properties

- *I further question if the proposed takeaway will have a meal delivery system. Should this be the case, where will the vehicle be parked whilst picking up deliveries*

Consultee Responses

The Council's Highways Engineer has raised no objections

The Council's Principal Environmental Health Officer has raised no objections to the scheme subject to the imposition of appropriate planning conditions

The Durham Constabulary Architectural Liaison Officer has raised no objections to the proposal subject to a planning condition being imposed to secure the proposed hours of operation

Following the submission of the amended plans Darlington Association on Disability has raised no objections to the proposal.

PLANNING ISSUES

The main issues to be considered here are whether or not the proposal is acceptable in the following terms:

Residential Amenity

Highway Safety

Disabled Access

Residential Amenity

Policy CS16 of the Core Strategy states that new development (which includes proposals to change of the usage of a building) should ensure that there is no detrimental impact on the environment, general amenity and the health and safety of the community.

The surrounding area is predominately residential interspersed with some commercial and retail units. Hot food takeaways have the potential to cause disturbance to neighbours due to noise generated by the comings and goings of customers and the operation of equipment to deal with fumes and smell. This can be particularly so at times when neighbours might have a reasonable expectation of a quieter environment.

A search of Council records revealed the closing times for the following hot food takeaways in the immediate area:

Greenbank Road

There is no recent planning history for this fish and chip takeaway but Environmental Health inspection records indicate that the premises close at 2100.

Bartlett Street

There is no recent planning history for this fish and chip shop but Environment Health inspection records show that the premises close at 21:15 although the timetable within the shop window indicates a closing time of 21:00.

Salisbury Terrace

The planning permission for this fish and chip shop (8/79/01077/CU) permits the premises to open until 2300 but it appears from the owner's comments that the premises currently close at 2100.

The ***Sainsbury Local*** on Corporation Road which is opposite the planning application site closes at approximately 2300.

There are hot food takeaways on North Road/High Northgate but they are in excess of 500m to the east of the application site

Following discussions with officers the hours of operation for the proposed hot food takeaway have been reduced and they would now replicate the closing times of a hot food takeaway at No 87 Grainger Street that was approved (ref no: 13/00958/CU) by Members of the Planning Applications Committee in February 2014 and a hot food takeaway at 15 Belvedere Road (ref no: 14/00563/CU) which was allowed on appeal in January 2015. Both of these sites were properties (albeit last used as retail shops) on the end of a terrace of dwellings in predominately residential areas.

It is considered that the proposed hours are not at antisocial times, or when residents would reasonably expect a certain degree of peace and quiet.

The Council's Principal Environmental Health Officer (Commercial) has no objections to the principle of the change of use provided that conditions are attached to any grant of planning permission to secure controls over an effective form of external plant and machinery, methods for controlling fumes and odours, the storage of waste and refuse, the fitting of internal grease traps and the submission of a noise impact assessment to ensure the neighbours and the future occupiers of the flat are not unduly disturbed by the ground floor usage.

There is an existing waste bin in the public highway outside of the premises which can be used by patrons of the premises.

The Durham Constabulary Architectural Liaison Officer has advised hot food takeaways can become focal points for anti-social behaviour with a consequential effect on public amenity and a draw on Police resources. There have been anti-social behaviour problems associated with similar establishments in this area but in recent times they have abated. The Police have no objections to the proposed change of use provided that the agreed hours of operation are secured by a planning condition. The ALO considers that business hours any later than those proposed would be inappropriate in this residential location.

It is considered that by limiting the proposed hours of use and imposing appropriate planning conditions to control noise, fumes and odours which might be generated by the use, the proposed change of use would not materially harm the amenities of the neighbouring dwellings. The proposal, subject to appropriate planning conditions, would accord with Policy CS16 of the Core Strategy.

Highway Safety

The premises which are at the end of a terrace benefits from a long gable wall onto a lane forming the rear access to the properties on Salisbury Terrace which should be kept free from obstruction.

The number of bedrooms within the proposed flat would remain the same as existing and only internal works are being proposed to alter the overall internal layout.

Servicing and public access to the ground floor premises would be required to take place from the public highway, however the highway impact to residents should be minimal especially as this would potentially serve a large walking catchment area of customers.

The highway to the front of the property forms part of a bus stop which would restrict parking at all times, with the main access junction onto Salisbury Terrace also protected by parking restrictions that limit parking for safety reasons. There is limited on street parking in nearby streets but the spaces that are available would still provide adequate vehicle parking for customers in connection with the takeaway business.

It is also considered that due to the limited hours of operation and time of day that the premises would be open, the additional traffic that would be generated by the proposed use would not be significant.

The Council's Highways Engineer has raised no objections to the proposal.

Two of the objectors to the original proposal submitted further comments and photographs referring to highway safety and vehicles currently being illegally parked in the street stating that this proposal would add to the current situation.

Accident records show that there has been one slight accident recorded on the last five years on Corporation Road in close proximity to the application site. The incident involved a pedestrian stepping in front of a moving vehicle.

In terms of parking on double yellow lines in the vicinity of the Sainsbury's store and the bus stop, the Council's Parking Enforcement Officer has confirmed that traffic wardens have to prioritise their efforts where there are existing problems in the Borough but visits are frequently made to Corporation Road and if observed, illegally parked vehicles are issued with tickets. Current government guidelines dictate that any vehicles parked illegally on a bus stop would be issued with a penalty notice immediately whereby with double yellow lines, a vehicle has to be observed for approximately 10 minutes before issuing a fixed penalty notice so for example if someone is visiting the Sainsbury's store to use the cash point and has taken less than 10 minutes there is a chance they will not be ticketed but would be asked to move along. If vehicles were parked directly outside the application site on the bus stop, they would be issued with a ticket immediately in order to protect the highway.

Having considered the submitted photographs which show vehicles being illegally parked on double yellow lines outside of the Sainsbury's store, it is considered that even with a bus waiting at the bus stop, it would not fully obstruct Corporation Road nor prevent traffic movements along its length.

Notwithstanding this, it is considered that poor driver behaviour associated with the convenience store is a matter for parking enforcement and should not be used as a reason to recommend refusal for this planning application on highway safety grounds.

Disabled Access

Policy CS2 of the Core Strategy states that all developments (which include proposals for a change of use) should provide safe, convenient and attractive access for disabled people.

There is a small open forecourt to the front of the premises which forms part of the application site and is within the ownership of the applicant. The proposal has been revised to include an access ramp within this forecourt area leading to the front entrance.

Darlington Association on Disability (DAD) has advised that whilst the ramp would not comply with Part M of the Building Regulations it should work and a similar ramp has been installed at the front of the Social Club for the Blind and Visually Impaired at No 73 Corporation Road. DAD has raised no objections to the proposal.

A planning condition would need to be imposed to ensure that the ramp is installed prior to the commencement of the use.

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

It is considered that the proposed change of use of the property to a hot food takeaway is acceptable due to the restricted hours of use that have been agreed. Any smells and odours from the premises can be controlled by appropriate extractors and vents and there is sufficient parking provision within the street for customers. The proposed change of use would accord with the relevant development plan policies

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

- 1) A3 – Implementation Limit (Three Years)
- 2) The use hereby approved shall not operate outside the hours 17:00 – 21:00 Monday to Saturday and 17:00 – 19:00 Sundays and Bank Holiday
REASON: In the interests of residential amenity
- 3) The access ramp shown on the approved plans shall be fully implemented prior to the commencement of the use unless otherwise agreed in writing by the Local Planning Authority
REASON: To ensure that the premises are accessible for disabled person
- 4) Prior to the commencement of the development, a Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The scope of the Assessment shall be agreed with the Local Planning Authority but the Assessment shall take account of noise from all commercial activities and noise and vibration from all fans, louvres, ducts and external plant associated with the takeaway. The agreed scheme of noise mitigation measures shall be fully implemented prior to the commencement of

the use and shall be retained and maintained in accordance with the manufacturers specifications as long as the premises shall continue to operate as a hot food takeaway.

REASON: In the interests of the amenities of the existing residential properties in the surrounding area and the future occupants of the proposed first floor flat

- 5) Prior to the use hereby permitted commencing, a scheme shall be submitted to, and approved in writing by the local planning authority for the effective control of fumes and odours from the premises. The agreed scheme shall be fully implemented prior to the commencement of the use and shall be retained and maintained in accordance with the manufacturers specifications as long as the premises shall continue to operate as a hot food takeaway.

REASON: In the interests of the amenities of the existing residential properties in the surrounding area and the future occupants of the proposed first floor flat

- 6) The use hereby permitted shall not commence until details of the arrangements for storing of waste or refuse have been submitted to, and approved by, the Local Planning Authority. The agreed scheme shall be fully implemented prior to the commencement of the use and shall be retained at all times thereafter.

REASON: In the interests of the general amenity of the surrounding area

- 7) The use hereby permitted shall not begin until a grease trap has been provided on the drainage outlets from the food preparation areas.

REASON: In order to prevent flooding and pollution.

- 8) B5 – Detailed Drawings (Accordance with Plan)

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

Darlington Core Strategy Development Plan Document 2011

CS2 – Achieving High Quality Sustainable Design

CS16 – Protecting Environmental Resources, Human Health and Safety

INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED

Environmental Health

The Environmental Health Section enforces Food Safety and Health and Safety legislation at this premises and the applicant is advised to contact Environmental Health (Mr S Todd – 01325 388566) prior to the undertaking of any work to ensure that all legislative requirements are met.

Naming and Numbering

The applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Ms. P. Goodwill 01325 406651) to discuss naming and numbering of the property.