

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 8 February 2017

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APPLICATION REF. NO:	16/01158/FUL
STATUTORY DECISION DATE:	17 th February 2017
WARD/PARISH:	NORTH ROAD
LOCATION:	303 North Road
DESCRIPTION:	Variation of condition 3 (opening hours 8.00 am - 6.00 pm Monday - Saturdays) of planning permission 02/00599/CU dated 27 August 2002 for change of use from Computer Shop (A1 Retail) to Cafe/Takeaway (Class A3) to permit opening hours of 0800 to 2100 Monday to Saturday and 0800 to 2000 on a Sunday (as amended by letter received 21 December 2016)
APPLICANT:	S Daneshmand

APPLICATION AND SITE DESCRIPTION

The existing property is located on the corner of North Road and Peabody Street and is occupied by Cosy Cafe on the ground floor with living accommodation above. The premises have a two storey off shoot and a rear yard area which is accessed off Peabody Street. A lane separates the premises from the beginning of the row of terraced dwellings on Peabody Street. The property has a small flue protruding from the north facing roof slope of the two storey off shoot.

The application site is within a predominantly residential area but it forms part of a row of commercial premises on this section of North Road comprising funeral directors, barbers, butchers, general store and retail shop. Some of these units also have residential flats at first floor level.

The cafe is currently closed but when planning permission (see Planning History) was originally granted for the cafe/takeaway it was subject to a condition that the premises shall not operate outside of the hours 0800 and 1800. The Council's Environmental Health records show that the premises operated as cafe with seating inside but also with a takeaway element which would accord with the 2002 planning permission. Planning permission was refused in 2008 to extend the opening hours to 0800 - 2300 every day. The application was refused for the reason set out below.

The application was originally seeking a closing time of 10.00 pm Sunday to Thursday and 11.00 pm on Fridays and Saturdays.

Following discussions with Officers this planning application has been amended and is now seeking permission to extend the existing opening hours to 0800 to 2100 Monday to Saturday and 0800 to 2000 on a Sunday.

The existing use of the premises as a cafe and takeaway would remain unchanged and the proposal does not include any external alterations to the premises or the erection of any new external plant, machinery or equipment.

PLANNING HISTORY

02/00599/CU – In August 2002 planning permission was GRANTED for a change of use from Computer Shop (A1 Retail) to Cafe/Takeaway (Class A3) (Opening hours 8am - 6pm)

08/00014/FUL – In February 2008 planning permission was REFUSED to vary of condition 3 of Planning Permission 02/00599/CU to permit opening hours from 0800 - 2300 every day. The planning application was refused for the following reason:

- *The change in emphasis and function of this site from a daytime café/takeaway to an evening hot food takeaway would serve to encourage an evening presence of customers outside of the premises and in the surrounding area that could act as a focus for an increase in disturbance and general additional demand for the limited on street parking in the vicinity to the material detriment of the residential amenities currently enjoyed by local residents*

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

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

- *We object to the late opening of the premises. This is a residential area and the late time of opening will result in late night noise and due to the position of the premises which is on a major road with a bus stop right in front, will add to the parking problems which are already bad enough*
- *We already have two takeaways, a butcher and a fish shop. We do not need takeaway. Because of the hours (up to 2300) we will get people hanging around on a night. It is bad enough during the day with traffic, trailers and transits parking on the footpath*
- *There are far too many takeaways on North Road. This will make it harder for me to sell my house and might put my house price down. We have had antisocial behaviour on North Road from takeaways and this will create more from youths and drunks coming out of local pubs. We already have parking issues. Local residents cannot park their cars in front of their homes due to strangers parking there or blocking us in. Fish and Chip shop closes earlier (9pm Mon to Friday and 10:45pm on Friday and Saturday) and the Chinese takeaway closes at least one day during the week*

- *No parking there already. Late night opening will lead to disturbances.*

A petition against the proposal has been signed by 35 signatories.

Following the consultation exercise with local residents on the amended hours of opening, a second objection was received from a previous objector making the following comments:

- *I am still objecting to giving the premises an A3 even if they have made amended information. My views are still the same. This will not make a lot of difference. Please do not allow another hot food takeaway to be open on North Road. Residents are strongly objecting.*

Consultee Responses

The Council's Highways Engineer has raised no objections

The Council's Principal Environmental Health Officer has raised no objections

The Durham Constabulary Liaison Officer has advised that the Police have no comments or observations to make about the proposed development.

PLANNING ISSUES

The main issues to be considered here are whether the proposal would be acceptable in the following terms:

- Planning Policy
- Impact on Residential Amenity
- Highway Safety

Planning Policy

Policy CS2 of the Core Strategy states that proposals should provide suitable access and parking for its use and location.

Policy CS16 of the Core Strategy seeks to ensure that proposals do not harm the general amenity, health and safety of the community

Impact on Residential Amenity

It is important to remember that this proposal does not involve a change of use of the premises and it is seeking to extend the opening hours of the existing business as a cafe/takeaway only. If the premises began to operate solely as a takeaway, a planning application for a change of use to an A5 use would be required.

Following discussions with officers the proposed hours of operation have been reduced and they would now be similar to the closing times of hot food establishments at No 87 Grainger Street (ref no: 13/00958/CU), at No 15 Belvedere Road (ref no: 14/00563/CU); at No 155 Corporation Road (ref no: 14/01163/FUL) and No 366 Yarm Road (ref no: 16/00896/FUL) which are all in residential areas (in most instances on the end of a terrace of residential dwellings) and have been recently approved by the Local Planning Authority under the scheme of delegated powers, by Members of the Planning Applications Committee or by the Planning Inspectorate at appeal.

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

The proposal does not involve the introduction of any additional plant or equipment that may raise noise or odour concerns. The installation of such equipment would require the submission of a separate planning application.

It is considered that the proposed extension to the existing cafe/takeaways hours of operation will not significantly harm the amenities of the neighbouring dwellings.

Highway Safety

There is a bus stop on the North Road frontage but the property benefits from a lengthy frontage on Peabody Street that can accommodate up to 4 or 5 vehicles without directly impacting on the neighbouring dwellings. There are no recorded accidents within the previous 5 years data and the extended opening hours would be generally outside of the busier peak periods on North Road and therefore any additional traffic generated by the proposal should not pose a highways issue.

Other Matters

Members are advised that the impact that the proposal may have on the sale of any neighbouring dwellings is not a material planning consideration and the application should not be refused on such grounds.

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 amended hours of operation for the existing use is acceptable and will not cause significant harm to the amenities of the surrounding area. There is sufficient on street parking available for customers. The proposal would accord with the relevant local development plan policies.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITION:

1. The cafe/takeaway use shall not be open to customers outside the hours of 0800 to 2100 Monday to Saturday and 0800 to 2000 on a Sunday.

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

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