

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 22 July 2020

APPLICATION REF. NO:	20/00104/FUL
STATUTORY DECISION DATE:	31 July 2020
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	Building Adjoining 16 Station Terrace, Middleton St George
DESCRIPTION:	Change of Use from storage (Use Class B8) to shop (Use Class A1) including installation of new shop front, windows and doors
APPLICANT:	Mr Jahane Khoramy

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q5H905FPINA00>

APPLICATION AND SITE DESCRIPTION

1. The application property is located behind Station Road, Middleton St George, at its junction with Heathfield Park. It is a two-storey building used for storage purposes with 16 Station Terrace, a dwelling house, attached to its south and east elevations. The storage building and No 16 Station Terrace are detached from the properties on Station Road (west) and the dwellings on Heathfield Park (south). There is a lane between the building and the rear of the properties on Station Road.
2. The storage building has sliding doors on the front elevation and a doorway to the side (west) and there is an internal staircase leading to the first floor. The internal dimensions of the building measure 25.2m². There is a forecourt to the front, but this land is not within the ownership of the applicant and is not included within the application.

3. The proposal involves the change of use of the building to a Class A1 (retail) use with the ground floor being used for retail purposes and the first floor remaining in storage use. The internal alterations involve repositioning the internal staircase from the western wall onto the southern wall and the inclusion of a ground floor wc. A new shopfront would replace the sliding doors on the front elevation and new windows and door would be placed into the west elevation.
4. There would be no designated parking spaces with the building.
5. The type of retail use is unknown at this stage as there is no identified end user, but the applicant has agreed to the imposition of a planning condition that would restrict the hours of opening to 0800 to 1700 Monday to Sunday.

MAIN PLANNING ISSUES

6. There is no recent planning history for the storage building or 16 Station Terrace. The main issues to be considered are whether the proposal is acceptable in the following terms:
 - a) Planning Policy
 - b) Residential Amenity
 - c) Highway Safety
 - d) Impact upon the Visual Appearance of the Building
 - e) Disabled Access

PLANNING POLICIES

7. Relevant Local Plan policies are those seeking to ensure that the proposed development
 - Is located within the development limits as defined by the Borough of Darlington Local Plan (saved policy E2 of the Local Plan and CS1 of the Core Strategy 2011)
 - Is classed as a "local Shop" of less than 100m² (Policy CS9 of the Core Strategy 2011)
 - Protects the general amenity and health and safety of the local community (CS16 of the Core Strategy 2011)
 - Provides vehicular access and parking suitable for its use and location (CS2 of the Core Strategy 2011)
 - Is within a sustainable location and accessible by various modes of transport, pedestrians and disabled persons (CS2 of the Core Strategy 2011)
 - Reflects or enhances Darlington's distinctive nature; creates a safe and secure environment (CS2 of the Core Strategy 2011)

RESULTS OF TECHNICAL CONSULTATION

8. No objections in principle have been raised by the Council's Highways or Environmental Health Officer.

RESULTS OF PUBLICITY AND NOTIFICATION

9. Twenty-three letters of objection have been received following the Council's publicity exercises. The concerns can be summarised as follows:

- *Noise, odours and litter*
- *Lack of parking for customers and deliveries*
- *Proposed hours of openings*
- *The junction with Heathfield Park gets very congested and dangerous with cars parked on both sides of the road*
- *There will be an increase in risk of accidents to residents, children and elderly*
- *The tarmaced area near to the building (next to gas building) is private property and not available for public use*
- *It is unclear what the shop will be, and it could be changed easily to other uses*
- *There are already several shops in the village*
- *This is a residential area and residents should expect a level of amenity concurrent with their property*
- *Parking could hinder refuse collection, emergency vehicles; delivery vehicles*
- *Visitors will park in Heathfield Park affecting access and exit from driveways*
- *The building has no formal access from the public highway as it would cross a busy footpath*
- *There have been collisions and near misses at the junction and additional parking for a shop will exacerbate the issue*
- *This is the only exit and entrance into Heathfield Park and all parents and children who walk to school must pass in front of the building*
- *The site is opposite a substation and when the gas Board are competing their maintenance routines, they park outside the station and narrow the road, and this will be made worse by people parking on the opposite side of the road*
- *The white lines painted by the Council have done nothing to alleviate the existing parking problems and are often ignored*
- *The gas station opposite is dangerous and if kids are attracted would pose a threat to safety*
- *There is no space for waste storage*
- *Cars will be parked on pavements*
- *The connecting wall with No 16 Station Terrace is a single brick construction and the ground floor toilet would be adjacent to the living/dining room of No 16. The stairs and first floor are attached to the main bedroom of No 16 and noise transmission could be an issue*
- *There is no mention of any noisy machinery for fridges; ventilation or air conditioning units*

- *It will attract antisocial behaviour*
- *Site is opposite a children's play area*
- *The forecourt is privately owned, and customers and staff will park directly outside No 16 Station Terrace*
- *The use will generate employees*
- *The lane will be used for parking of cars and block access for refuse lorries*
- *The use will be an invasion of privacy for No 16 Station Terrace as people will park and have a view into garden area and yard*
- *The development would be out of character with the existing dwelling and lose historic value to the community*
- *Conditions to secure future restrictions on the building would be required*

10. Middleton St George Parish Council support the residents in their objections to the planning application

11. Other matters that have been raised which are not material planning considerations relate to the applicant not consulting with residents about potential end users prior to applying and the lack of information submitted with the planning application.

PLANNING ISSUES/ANALYSIS

a) Planning Policy

12. The premises are located within the development limits for the village as defined by the Proposals Map of the Borough of Darlington Local Plan 1997.

13. Policy CS9 of the Core Strategy 2011 states that individual local shops which meet the day to day needs of the nearby residents without the need to use a car will be promoted. Proposed new shops will be limited to a maximum of 100 sqm gross floorspace unless a qualitative need to remedy a geographical deficiency in the distribution of food shopping can be demonstrated, in which case stores of up to 400sqm will be permitted.

14. The proposed store is significantly below the 100sqm threshold at 25.2sqm and therefore in general planning policy terms the proposed change of use is acceptable.

(b) Residential Amenity

15. The application property is in a predominantly residential area, although the ground floor of 15 Station Terrace to the west is in use as a picture framer. The proposed retail use of the premises has the potential to impact upon the amenities of nearby residential properties in terms of noise, nuisance and disturbance arising from increased activity.

16. As the proposed retail use is unknown at this stage, the applicant has agreed to the imposition of planning conditions to secure the following:

- a) Hours of operation to be 0800 – 1700 Monday to Sunday
 - b) Details of any plant such as flues, refrigeration and air conditioning units, if they are required
 - c) Details of waste storage
17. The applicant has also agreed to the imposition of a planning condition which would restrict the use of the unit to Use Class A1 only. Planning permission would therefore be required for any future uses other than to another A1 use and would remove any permitted changes between Use Classes that are either currently allowed or may be allowed in the future should any further relaxation of planning control be introduced. Such a condition will ensure that the local planning authority retains control over the future use of the building to safeguard the amenities of nearby residential properties.
18. Building Control Officers have advised that the building has probably been constructed with 9inch walls which is very similar to standard construction between terraced dwellings. There would be no requirement under Building Regulations to apply further sound insulation between the unit and No 16 Station Terrace, but the applicant has agreed to the imposition of a planning condition to secure such measures in the interests of residential amenity. This should improve conditions for the occupant of No 16 Station Terrace.
19. The Council's Environmental Health Manager has no objections to the principle of the change of use provided that the above planning conditions are imposed on any approval.
20. The Durham Constabulary Architectural Liaison Officer has advised that the Police would welcome conditions to restrict the operating hours and the use of the building to Class A1 retail only.
21. It is considered that the size of the building will limit the scope of retailers that may be express an interest in operating from the unit and it will restrict the number of persons/customers that can visit the premises at any one time. The proposed planning conditions would also influence the potential occupants as they would have to operate in accordance with them. Any variation to these conditions, for example a change to the opening hours, would need to be the subject of a planning application for consideration by the local planning authority.
22. Whilst customers would be able to view the garden and yard area of No 16 Station Terrace when visiting the premises, this is currently possible by people walking past the building and by persons who operated the building in its current use. Furthermore, it is not envisaged that the retail unit would attract large numbers of customers due to its size. As such it is not considered that the proposed use would result in an unacceptable loss of privacy to this property.
23. The proposed retail use is considered acceptable subject to a number of planning conditions which are considered to ensure sufficient safeguards regarding the operation of the retail unit are in place to protect residential

amenity and which have been agreed with the applicant. The proposal would, in such circumstances accord with policy CS16 of the Core Strategy 2011.

(c) Highway Safety

24. As the proposed end user is unknown at this moment, it is difficult to fully assess the likely traffic generation, however for a retail use with a floor area of 23 sqm, the Tees Valley Design Guide advises that one space should be provided with one additional parking space for staff.
25. Based on the reasonable presumption of the shop having a single member of staff/owner requiring space for a single car or van and one customer space being required, this only equates to there being a need for two parking spaces. The unit has no parking spaces designated to it and the forecourt at the front of the premises is not within the ownership of the applicant.
26. Having considered the proposal and the comments made by residents, the Council's Highways Engineer has advised that the lack of parking provision for two vehicles would not constitute a severe impact on the local highway.
27. With the applicant agreeing to opening hours of 08:00 – 17:00 Monday to Sunday, the highway network during the week is generally quieter at these times and on-street parking is less due to people being at work. It is acknowledged that the network may be busier and parking arrangements will change on a weekend, but again, it is considered the impact the unit may have on highway safety during the proposed opening times is not severe to justify a refusal of planning permission.
28. A review of the Police accident statistics over the last five years shows that there are no recorded incidents near the site or the junction with Station Road/Heathfield Park. As a result, there is no reason to suggest that there are fundamental road safety concerns at this location. Informal white line hatch marks are in place around the junction however these are primarily intended to guide passing motorists out past the vehicles in on-street parking laybys rather than protect sightlines out of the junction.
29. The objections refer to problematic parking at the Station Road/Heathfield Park junction. The Highways Authority do have the power to impose formal restrictions with double yellow lines following appropriate consultation exercises with the residents.
30. Residential developments of up to 300 dwellings may be served via a single access junction such as the access to Heathfield Park. This access currently serves approximately 90 dwellings and is therefore considered sufficiently robust to accommodate the minor intensification of use associated with this application.
31. The concerns raised by objectors have been considered alongside the advice from the Council's Highways Engineer and there is insufficient evidence to

demonstrate that there would be a severe impact on the highway to justify a refusal of planning permission. The proposal would be acceptable in highway terms and would accord with policy CS2 of the Core Strategy.

(d) Impact upon the Visual Appearance of the Building

32. The proposal would involve the insertion of a shop front within the front elevation of the building and new windows in existing openings to the front and side. The building is not a listed building nor located within a Conservation Area, but it does retain some character and order to safeguard its appearance and character, appropriate planning condition can be imposed which requests the precise details and materials of the shopfront and window and door frames. This will ensure that the development accords with Policy CS2 of the Core Strategy.

(e) Disabled Access

33. The submitted plans show the inclusion of an accessible toilet and a mobility staircase which has a shallower pitch and therefore easier to negotiate than a normal staircase. The local planning authority would ensure that any new shop front includes a level access into the building. A planning condition can be imposed to ensure that the wc and staircase are both implemented prior to the commencement of the use. It is considered that the proposed development would accord with policy CS2 of the Core Strategy.

THE PUBLIC SECTOR EQUALITY DUTY

34. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The measures that have been put in place to eliminate discrimination have been considered at paragraph 33

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

35. 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 AND RECOMMENDATION

36. Whilst limited information has been provided within the planning application, it remains possible to consider the appropriateness of the proposed change of use to a retail use and for the local planning authority to impose planning conditions to protect the amenity of the local area and the neighbouring properties. Having

considered the proposal and the comments that have been received from residents, the proposed change of use of this small unit is acceptable subject to the imposition of planning conditions and the application would accord with the appropriate development plan policies.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

REASON – To accord with the provisions of Section 91(1) of the Town and Country Planning Act 1990

2. The development hereby permitted shall be carried out in accordance with the approved plan as detailed below:

- a) Drawing Number 2002 – 02 Proposed Plan
- b) Drawing Number 2002 – 03 Site Location Plan

REASON – To define the consent

3. The internal staircase and accessible wc shown on the approved plan (drawing number 2002 – 02) shall be installed prior to the commencement of the use hereby permitted unless otherwise agreed in writing by the local planning authority and shall be retained for lifetime of the development.

REASON – To ensure that the development is suitable for disabled persons

4. Notwithstanding the details shown on the approved plans, precise details of the new shop front and external alterations to the building shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The details shall include materials, colour scheme, disabled access arrangements and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of the visual appearance of the development

5. Prior to the commencement of the development, a sound insulation scheme to be used between the building and No 16 Station Terrace, Middleton St George shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out otherwise than in complete accordance with the approved details and the agreed scheme shall be carried out prior to the commencement of the use hereby permitted.

REASON: To safeguard the amenities of the neighbouring dwelling

6. Prior to the commencement of the use, precise details for the storage and disposal of waste shall be submitted to and approved in writing by the local

planning authority. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON – In the interests of the amenity of the area

7. The use hereby approved shall not operate outside the hours of 0800 – 1700 Monday to Sunday unless otherwise agreed in writing by the local planning authority

REASON – In the interests of the amenity of the local area

8. The premises shall be used for Class A1 (shop) purposes only and for no other purpose set out within the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking or re-enacting that Order.

REASON - The Local Planning Authority is satisfied that the use hereby approved would not result in detriment to neighbouring properties but would wish to control future changes of use in the interests of amenity and highway safety

9. In the event of the need to install any fans, louvres, ducts or other external plant associated with the use, precise details shall be submitted to and approved in writing by the Local Planning Authority prior to such equipment being installed. The development shall not be carried out otherwise than in complete accordance with the approved details and any identified noise mitigation measures shall be implemented prior to the use being brought into operation

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

10. In the event of the need to install any fans, louvres, ducts or other external plant associated with the use, 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 prior to such equipment being installed. The agreed scheme shall be implemented prior to the use being brought in operation

REASON: In the interests of the amenity of the locality

INFORMATIVES

This Environmental Health Team enforces Health and Safety legislation at this premises and the applicant is advised to contact this department prior to the undertaking of any work to ensure that all legislative requirements are met.