

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 1st February 2023

APPLICATION REF. NO:	22/00983/FUL
STATUTORY DECISION DATE:	3 rd February 2023
WARD/PARISH:	Mowden
LOCATION:	Beau Visage, 82 Fulthorpe Avenue DARLINGTON DL3 9XT
DESCRIPTION:	Change of use from beauty salon to tanning salon (Sui Generis) with replacement shop front (Retrospective Application) (amended plans received 11 November 2022)
APPLICANT:	Hartburn Tanning

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=Q82CFLFPLCD00>

APPLICATION AND SITE DESCRIPTION

1. The application site is a unit located within a shopping parade on Fulthorpe Avenue. The parade is a two storey building with a mix of retail/commercial units on the ground floor and apartments on the first floor. There are customer parking bays to the front of the parade. The shopping parade is located in a residential area with a flatted development to the north (Sandringham Court), dwellings to the east and west and the Model T Public House to the south.
2. The unit was last used as a beauty salon under planning permission ref no: 08/00918/CU dated January 2009.

3. This planning application is seeking retrospective planning permission for a replacement shopfront and to change the use of the unit from a beauty salon to a tanning salon. The shopfront has been installed but the change of use has not commenced.
4. The plans submitted in support of the planning application show a reception area to the front of the premises, with ten sunbeds (5 beds and 5 pods) and a staff area and wc to the rear. The proposed hours of operation would be
 - 10:00 to 21:00 Monday to Friday
 - 10:00 to 18:00 Saturday
 - 10:00 to 16:00 Sundays and Bank Holidays
5. The planning application originally involved the installation of an external extraction unit and fan, which had been installed without the benefit of planning permission but following concerns raised by objectors and the Council's Environmental Health Manager regarding noise emissions from the equipment, the extraction system has been removed from site and is now omitted from the planning application.

MAIN PLANNING ISSUES

6. The main planning issues to be considered here are whether the planning application is acceptable in the following terms
 - a. Impact on the Vitality and Viability of the Mowden Local Centre
 - b. Impact on the Visual Appearance of the Surrounding Area
 - c. Residential Amenity
 - d. Highway Safety
 - e. Access

PLANNING POLICIES

7. The following policies within the Darlington Local Plan 2016 – 2036 are relevant

DC1: Sustainable Design Principles and Climate Change

DC3: Health and Wellbeing

DC4: Safeguarding Amenity

TC4: District and Local Centres

IN2: Improving Access and Accessibility

IN4: Parking Provision including Electric Vehicle Charging

RESULTS OF TECHNICAL CONSULTATION

8. The Council's Highways Engineer has raised no objections
9. Following the removal of the external extraction system from the development, the Council's Environmental Health Manager has raised no objections

RESULTS OF PUBLICITY AND NOTIFICATION

10. The Local Planning Authority received ten objections to the planning application in its original form, which included the external extraction system. The majority of the comments raised concerns over the noise emissions and visual appearance of the extraction system along with the following comments, which have been summarised

- *Is there a need for another sunbed business in this area with older, retired residents?*
- *There is already a tanning sunbed facility next door along with a barber (which advertises a sunbed)*
- *These changes have been done without the benefit of planning permission*
- *The car park is already overcrowded*
- *Will music be playing loudly?*
- *It will surely impact on other small established businesses with tanning facilities in them*
- *Adverse impact on property values*
- *High levels of heat emissions which contribute to climate change*
- *High levels of electricity usage contrary to Government edict to reduce fuel consumption*

11. Following the removal of the external extraction system, one of the residents withdrew their previous objection and two further objections were received which can be summarised as follows:

- *I am uneasy as to where the heat emission and fumes will go when no alternative eradication provision has been made or planned for*
- *High levels of heat emissions which contribute to climate change*
- *High levels of electricity usage contrary to Government edict to reduce fuel consumption*

PLANNING ISSUES/ANALYSIS

a) Impact on the Vitality and Viability of the Mowden Local Centre

12. Within the parade there is a Barber's shop which advertises a stand-up sun bed and a hairdresser in the unit next to the application site which also offers tanning booths. It is assumed that these are ancillary offers to the primary usage as barbers and hairdressers. The competitive impact that the proposed use would have on the other businesses already in operation is not a material planning consideration and the application cannot be determined on such a basis.
13. Policy TC4 of the Local Plan states "sui generis" uses are permitted in the Mowden Local Centre provided that they are physically integrated with the rest of the centre and will ensure that the vitality and viability of the centre is maintained.
14. Local Centres are important in meeting local needs, providing food shopping and a range of other local shops, services and leisure uses. They are accessible and help reduce the need to travel. These centres are generally healthy with exceptionally low

vacancy rates. National planning policy indicates that policies should guard against the unnecessary loss of valued facilities and services where this would reduce the community's ability to meet its day-to-day needs, and ensure that established shops and services are able to develop and modernise in a way that is sustainable, so they are retained for the benefit of the community

15. The unit was last used as a beauty salon and therefore the proposal would not result in the loss of a Class E retail shop within the parade. The proposed use would attract a very similar clientele to the previous use, and it would operate during daytime hours rather than just on an evening. The use would contribute towards the viability and vitality of the Local Centre as a whole in accordance with policy TC4 of the Local Plan

b) Impact on the Visual Appearance of the Surrounding Area

16. The external extraction unit which was installed on the north elevation (side) of the premises has now been removed and the wall will be made good.
17. The non-illuminated fascia sign shown on the submitted plan has advertisement consent (ref 22/00984/ADV).
18. The new shopfront is primarily all glazed which is in keeping with other existing shopfronts within the parade. The new shopfront will not have an adverse impact on the visual appearance of the shopping parade or the wider street scene. The development would accord with Policies DC1 and TC4 of the Local Plan in this regard.

c) Residential Amenity

19. The main source of concern that was raised by residents was the visual and residential amenity impact of the external extraction unit which had been installed on the north facing elevation without the benefit of planning permission. The extraction unit was in quite close proximity to and visible from the flats within Sandringham Court to the north of the shopping parade and from Fulthorpe Avenue itself
20. The Council's Environmental Health Manager visited the site to assess the noise emissions that the extraction unit would generate, and they were judged to be unacceptable. The applicant was advised that it was unlikely the noise from this particular extractor in this position on the building could be mitigated for to an acceptable level. As a result, the unit has now been taken down and removed from the premises and does not form part of this application.
21. The Council's Environmental Health Manager has no objections to the revised planning application.
22. It is considered that the proposed hours of operation are acceptable in these residential surroundings and would not lead to adverse amenity conditions for residents. The hours can be secured by the use of a planning condition.

23. Officers have been advised that the only reason for the external equipment was to extract heat from the premises, if necessary. The extraction unit was fitted as a precaution, but it may not have been required due to the size of the front door and the natural ventilation that the entrance would provide. The health and safety requirements for this proposed use would fall within the remit of the Council's Environmental Health Team and health and safety legislation would be used if any contraventions occurred and were found due to excessive heat in the premises. The applicant has been advised that if this application is approved, and there is a need for some form of external extraction system to be installed in the future, a planning application would be required, and planning permission must be sought prior to any installation taking place.
24. The matters raised with regard to property values, electricity and energy usage are not matters which can be considered as part of this planning application.
25. Overall, it is considered that the proposed use and the new shop front would not raise any adverse amenity issues and the amended planning application would accord with policies DC3 and DC4 of the Local Plan in this regard.

d) Highway Safety

26. The new use will make little material difference with regard to traffic generation and parking requirements over the previous use as a beauty salon. Parking is available to the front of the site, and it is not anticipated that there would be any highways impact. The Council's Highways Engineer has not objected to the planning application and the scheme is considered to comply with policies DC1 and IN4 of the Local Plan in this regard

e) Access

27. The shopfront has an accessible entrance and therefore it would accord with policy IN2 of the Local Plan in this regard

THE PUBLIC SECTOR EQUALITY DUTY

28. 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 issue of disabled access to the premises is considered at paragraph 27.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

29. 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

30. The planning application has been amended following the removal of an extraction unit on the side elevation, which was the main source of concern for residents and the Council's Environmental Health Manager. Officers have been advised that the extraction unit was not a necessity, and the applicant has been advised that planning permission would be required to install such equipment if it is required in the future. The amended application would not have an adverse impact on the viability, vitality and visual appearance of the Mowden Local Centre, or highway safety or the general amenity of the surrounding area. The use and the shop front would accord with the local development plan. It is therefore recommended:

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plans and documents, as detailed below:
 - a) Drawing Number 2062 – 22 – 101 Rev C Proposed Details

REASON – To ensure the development is carried out in accordance with the planning permission

3. The use hereby approved shall not operate outside the hours of 10:00 to 21:00 Monday to Friday; 10:00 to 18:00 Saturday and 10:00 to 16:00 Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority

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