

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 5 March 2025**

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**APPLICATION REF. NO:** 24/00427/FUL

**STATUTORY DECISION DATE:** 24<sup>th</sup> January 2025 (EOT 7<sup>th</sup> March 2025)

**WARD/PARISH:** HURWORTH

**LOCATION:** Hurworth Fisheries 12 To 14 Church Row  
Hurworth Darlington DL2 2AQ

**DESCRIPTION:** Conversion of fish shop takeaway (Sui Generis) (12 Church Row) to a deli outlet and cafe/restaurant with storage to first floor, including removal of existing rear balcony, erection of part two storey, part single storey side and rear extension incorporating a raised terrace area at rear for outdoor dining, together with replacement shop front, re-alignment of first floor front window and other associated works. Change of use of adjoining dwelling (14 Church Row) to associated storage and installation of new matching shop-front style window (Amended description) (Amended plan reducing the number of covers to 32 received 27th January 2025)

**APPLICANT:** MR FRANCIS WARD

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS** (see details below)

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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=SCREZ0FPKQ600>

**APPLICATION AND SITE DESCRIPTION**

1. The application site consists of an existing terraced commercial premises (12 Church Row) (currently trading as Hurworth Fisheries) with a first floor flat, together with the adjoining residential dwelling (14 Church Row), both situated to the south of Church Row, to the easternmost end of Hurworth Village and at the end of a line of residential properties. The site sits within the Hurworth Conservation Area, adjacent to the site of the existing Grade II listed All Saints Church. To the south of the site is the River Tees and the plot falls within Flood Zones 2 and 3.
2. The proposal is to convert the existing fish and chip shop into a deli/food outlet, and to build a part two-storey and part single storey rear extension, together with the change of use of the adjoining residential property at 14 Church Row, into storage associated with the deli / food outlet. The existing first floor flat to No. 12 would be used for associated storage. The building will also be provided with a new ground floor façade to the north elevations of No. 12 and 14 and a rear terrace overlooking the River Tees.
3. The rear extension would result in an overall two-storey element of some 10.8m deep (currently 6.7m) x 5.4m high (currently some 5.4m to eaves and 7.1m to ridge) x 6.3m (currently 4.4m) wide. To the roof, the existing pitched roof would be repaired and retained, with a parapet coping detailing to the remainder to match the proposed single storey element. This increases the existing two-storey element by some 4.1m in depth and 2.2m in width. The ground floor element would be some 6m deep x 2.4m high at its northernmost point and 3.6m high as it sits on the lower bank, and some 5.7m wide. To the roof would be parapet coping detailing and roof lantern. The external terrace would have a further depth of some 3.6m.
4. External materials would consist of hard wood windows to the extension and proposed shopfront. The extension would be re-rendered to the north and west elevation with reclaimed brick to the east and south elevation. The application states that the overall works would involve repairs to the existing external façade of the building which is currently in poor condition.
5. Further to discussions with officers, as a result of issues raised by objection, the application has been amended to reduce the number of proposed dining covers from 42 to the rear dining area (including the external terrace) with 2 seats to the counter area, to 32 seats within the dining area (including the external terrace) with 2 seats to the counter area. The amended plans show a reduction the number of seats within the external terrace area, from 10 to 4.

## **MAIN PLANNING ISSUES**

6. The relevant issues to be considered in the determination of this application are:
  - (a) Principle of the proposed development
  - (b) Impact on heritage assets and visual amenity
  - (c) Impact on residential amenity
  - (d) Highway safety

- (e) Impact on trees
- (f) Biodiversity
- (g) Flood Risk

## **PLANNING POLICIES**

7. The following policies are relevant in the determination of this application:

### **National Planning Policy Framework (2024)**

#### **Darlington Local Plan 2016 – 2036**

SD1: Presumption in Favour of Sustainable Development

SH1: Settlement Hierarchy

DC1: Sustainable Design Principles and Climate Change

DC2: Flood Risk & Water Management

DC3: Health and Wellbeing

DC4: Safeguarding Amenity

H3: Development Limits

TC1: Darlington Town Centre

TC4: District and Local Centre

ENV1: Protecting, Enhancing and Promoting Darlington's Historic Environment

ENV7: Biodiversity and Geodiversity and Development

ENV8: Assessing a Development's Impact on Biodiversity

IN2: Improving Access and Accessibility

IN4: Parking Provision including Electric Vehicle Charging

## **RESULTS OF TECHNICAL CONSULTATION**

8. No objections in principle have been raised by the Council's Highway Engineer, Ecology Officer, Environmental Health Officer or the Environment Agency, subject to conditions.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

9. No objections have been received from Hurworth Parish Council.
10. 16 No. individual objections have been received from residents, and these raise the following concerns:
- Increase in parking requirements. Parking already difficult and in high demand with some businesses already not having designated parking.
  - Impact on highway safety.
  - Impact on residential amenity and quality of life for existing residents. Concerns regarding overlooking, noise and disturbance.
  - Impact on character of the village.
  - Design, scale and impact on visual amenity.
  - Impact on trees and ecology.
  - Loss of existing fish and chip shop will impact on community.

- Decline in use of other community facilities due to less parking availability, and therefore loss of community spirit.
- Concerns as to how the developer will access the rear of the property during construction.
- Extending the façade to No. 14 in the same style implies it is all one business, with the potential to result in customers congregating outside nearby living room windows or blocking the passageway to the rear of properties.
- Reduction in covers makes little difference to concerns regarding noise and disturbance particularly as the external terrace remains. One table on the external decking is unrealistic and there are likely to be many more, with doors open in good weather resulting in the additional noise from indoor customers.
- Concerns that the applicant intends to change the use of some of the rooms marked as storage, to customer use, particularly the front room of No. 14, or that it could be used to house noisy machinery.

11. One concern raised is that as the plans have been amended through the application process, which has represented a change in strategy for the applicant to some extent, that the plans could change again. Whilst these concerns are noted, the plans being considered are as submitted. If, following the grant of planning permission, the developer wishes to make any amendments to the plans such a change will usually require them to make an application which will be consulted upon (a section 73 application). It would only be in the case of a minor non-material amendment that a plan could be altered without the application requiring being consulted upon (a section 96A application). In this case, due to the nature of the building, which is very closely related to neighbouring properties, most changes would require a full planning application.

12. Also raised by objection, is the recent felling of several trees leading down from the cemetery to the river. This is outside of the development site, unrelated to the development proposed and has been investigated as a separate enforcement issue which has resulted in a requirement for the applicant to re-plant trees within a specified period. This issue is being monitored by the Enforcement Officer for compliance.

## **PLANNING ISSUES/ANALYSIS**

### **a) Principle of the proposed development**

13. The proposed development is located within the development limits of Hurworth as set by Policies SH1 & H3 of the Local Plan. The proposed development therefore accords with said policies, which seek to achieve the locational strategy for new development in the Borough by establishing development limits within which development will be acceptable in-principle, subject to compliance with other relevant national and local policies.

14. Policies TC1 & TC2 states that proposals for main town centre uses should be located within either the town centre boundary or the district and local boundaries identified on the Policies Map. Where main town centre uses are proposed outside of the town centre boundary a sequential test should be applied in accordance with national policy. However, Para. 8.2.4 sets out that a sequential test is not required where the proposal reflects the existing use of the site. Given the previous use of the site, it is therefore considered unnecessary for a sequential assessment to be undertaken for this development.
15. In conclusion, since the proposed scheme is situated within development limits, and it is considered that a sequential assessment is not required, there are no significant policy concerns with the proposed development and it is therefore acceptable in principle, subject to consideration of the relevant development management issues set out below.

**b) Impact on Heritage Assets and Visual Amenity**

16. The site is located within Hurworth Conservation Area, and within the setting of the Grade II listed All Saints Church to the west, and therefore Policy ENV1 applies. The policy states in part A that, when considering proposals affecting all designated heritage assets (including conservation areas), great weight will be given to the asset's conservation. Proposals should conserve those elements which contribute to such asset's significance, including any contribution made by their setting in a manner appropriate to their significance irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Proposals resulting in less than substantial harm to designated heritage assets will be permitted only where this harm is clearly justified and outweighed by the public benefits of the proposal. Proposals resulting in substantial harm to or total loss of the significance of a designated heritage asset will only be permitted where this is necessary to achieve substantial public benefits that outweigh the harm or loss, or all of several criteria apply (please see Policy ENV1 for full criteria).

Part B of the policy provides further requirements for development in conservation areas. It states proposals affecting conservation areas, including the alteration, extension or change of use of a building should preserve and enhance those elements identified in any conservation area appraisal as making a positive contribution to the significance of that area. It goes on to state that special attention should be given to:

- i. existing architectural and historic character and associations by having regard to the positioning and grouping, form, scale, massing, detailing of development and the use of materials in its construction; and
- ii. existing hard and soft landscaping features including areas of open space, trees, hedges, walls, fences, watercourses and surfacing and the special character created by them; and
- iii. historic plot boundaries and layouts; and
- iv. the setting of the conservation area.

17. The policy also sets out that development will not be permitted that would lead to the loss of public or private open spaces within or adjacent to conservation areas where the existing openness makes a positive contribution to the character or appearance of the area or its setting, including landscape and townscape and views into or from the area, unless the public benefit demonstrably outweighs the harm.
18. Policy DC1 is relevant in terms of securing good design and states that all development will be required to have regard to the design principles in the Design of New Development SPD and the National Design Guide. There are several criteria in the policy which the scheme should meet, including that the proposal reflects the local environment and creates an individual sense of place with distinctive character. Detailed design should also respond positively to the local context, in terms of its scale, form, height, layout, materials, colouring, fenestration and architectural detailing.
19. The proposal would result in the loss of some existing private space to the rear of the existing property however the site would retain some open space, and this loss is not considered to be significant. Whilst the design of the rear element of the development deviates from the more traditional design of the main property, it is intended to represent a contemporary addition to the property, whilst retaining the form of original features of the building including its pitched roof. Furthermore, its scale and appearance does not detract from, and will be seen in the context of, the existing building. The new facades are that of a traditional shopfront, both in terms of design and appearance, and materials. The proposal also involve repairs to the existing external façade of the building which is currently in poor condition, and this weighs in favour of the overall scheme in terms of visual improvements to the existing building.
20. Overall, both in terms of its position within the Hurworth Conservation Area and the setting of the nearby church, the proposal is not considered to raise significant issues in terms of impact on heritage assets and any 'less than substantial harm' in terms of a modern addition to the rear of the property, is outweighed by the benefits of the scheme, which ensure the continued use and maintenance of the building as a local community facility as well as improvements to its current worn appearance.
21. In turn, the proposed development is not considered to raise any significant issues in respect of its scale, design and appearance and impact on the visual amenities of the locality both at site-level and within the wider context. A planning condition is recommended to secure submission and agreement of external materials, and window details.
22. Subject to the above, the proposal complies with policies DC1 and ENV1 in this regard.

**c) Impact on residential amenity**

23. Policy DC4 states that new development should be sited, designed, and laid out to protect the amenity of existing users of neighbouring land and buildings and the

amenity of the intended users of the new development. Several criteria are set out in the policy. Given the details of the proposed scheme, the impact of noise and disturbance, emissions, and waste, on the neighbouring properties should be considered.

24. Firstly, in terms of the physical impact of the development, the proposal will result in changes to scale of the existing rear off-shoot, and this will impact on the nearest residential properties (to include the nearest dwellings, Weaver's Cottage at 14A which runs perpendicular to the east, and 16 Church Row as the nearest properties) albeit it should be noted that the assessment of design has concluded that the scale is in keeping with, and can be seen in the context of the existing building.
25. The existing rear two-storey element will alter in width and length, which would bring the entire extension at the most southerly point of the single storey element, broadly in line with the southern elevation of 14A. The extension would be visible from 14A and adjoining residential dwellings including No. 16, and would to some extent impact on outlook, more notably for 14A whose front elevation faces the application site, but also the site of No. 16 (the flank wall of the extension will sit some 9.5m from the western wall of 14A and some 4.6m from the boundary of the site).
26. The overall impact on residential dwellings is in part absorbed due to the inclusion of No. 14 within the application site, however the key issue is whether the remaining impact on 14A and 16 is within reasonable limits given the context of the site.
27. In terms of the scale, as set out above, the scale is appropriate in terms of its relationship with the existing building. The application site is set at a higher level than parts of adjoining land, and the presence of the existing boundary treatment to some extent mitigates the impact. It is considered that this, together with the (albeit limited) separation between the extension and the adjoining sites / buildings, ensures that the proposal is, on balance, within acceptable limits, and it is not considered that the proposal will be overbearing when viewed from the adjoining sites to the extent that it would be justified to refuse planning permission on these grounds, given the context.
28. Whilst there are no additional flank windows to the extension that would create an overlooking situation, adjacent gardens have a rear external terrace / studio and residents have raised concerns regarding potential overlooking, from the new external terrace and the impact of that on the privacy and enjoyment of outside space. A concern has also been raised regarding potential overlooking from the rear window to the two-storey element of the extension, facing south towards the Riverbank.
29. It is considered that there will be some impact from proposed external terrace in terms of an increase in activity and the possibility of overlooking, albeit any impact being partially influenced by seasonal changes and the limited size of the external terrace. It is considered that this can be sufficiently mitigated through the requirement for screening to the eastern boundary of the external terrace, and a condition is recommended to secure submission, agreement, implementation before occupation,

and subsequent retention of said mitigation. In terms of the window to the rear of the proposed extension facing south, it is apparent that this window is included to create a more uniform design. This type of intervisibility between sites is common in residential areas, however, as this area is to be specifically used for storage and not as a residential dwelling, any use of the window will be limited, and unlikely to impact on privacy to the extent that it would be justified to refuse permission on these grounds.

30. A matter raised by objection is the inclusion of 14 Church Row as storage, and the change of use of the first floor of No. 12 to storage. There are concerns that the presence of an extended façade to No. 14 provides the possibility of bringing the main commercial use closer to neighbouring dwellings, thereby increasing any impact on amenity. This is noted; however, as it is not the intention of the application to include areas set out as 'storage' for the use of customers, conditions are set out below to ensure that those areas indicated as storage are restricted as such.
31. Another concern raised in terms of the extended façade to No. 14 is the potential for people to congregate outside of the property on the street, creating potential noise and disturbance or blocking the entrance to the passageway. Whilst this concern is noted, there is no evidence to suggest that this will result as a direct consequence of the redevelopment of the site, and there are other statutory controls available to deal with such issues should they occur.
32. Secondly, in terms of the externalities of the development, the application has been submitted with a Noise impact assessment dated 25<sup>th</sup> October 2024 prepared by Apex Acoustics (Reference: 11999.1, Revision A) which considers potential noise impacts from the proposed development. This includes impacts from the new café/deli on the ground floor on the residential space above (first floor). However, since the assessment was undertaken, the residential element on the first floor has been removed and this floor is now proposed for storage and office space associated with the café/deli. The proposal now also includes change of use of No. 14 from a dwelling to storage associated with the café/deli.
33. Specific details of new plant associated with the proposed commercial premises are not yet available, so recommended noise limits have been established in the noise assessment to inform a planning condition. The assessment also details that once the details of the new plant are known, the impact should be assessed in accordance with BS4142. This will be covered in recommended planning conditions.
34. The noise assessment also considers the proposed changes in opening hours, existing and proposed use and capacity (compared to the current fish shop) and concludes that noise from the proposed development will likely be more continuous and potentially at a lower overall level than the existing chip shop use, but conditions will likely be required in terms of operational hours, deliveries etc and potentially for the use of the outdoor seating area/terrace.



35. The Environmental Health Officer has raised no objections to the proposed development subject to planning conditions to secure submission and agreement of any new plant to be installed, details of ventilation of fume extraction systems and operating hours to be restricted to 8am – 10.30 Monday to Saturday and 9am - 4pm on Sundays. It is noted that the requirement to specify 'operating' hours as opposed to 'opening hours' is to control the use of the premises for takeaway / Deliveroo type services that could have taken place outside of normal opening hours. The condition as worded, will restrict any activity to within the opening hours specified.
36. As noted above, through discussions with officers, the applicant has reduced the number of dining covers within the extension to 32. It is recommended that this limit be controlled by condition should the application be approved.
37. The applicant has specified that the adjoining dwelling and the first floor flat, will now be used as storage associated with the use. It is recommended that a planning condition be attached to any approval to specifically restrict this property to storage to ensure that it is not used to accommodate additional customers at any time.
38. Also recommended is the standard condition to control construction hours and requirement for a construction management plan.
39. Subject to the above controls, the proposal is considered to be acceptable in terms of its impact on residential amenity and complies with the requirements of policy DC1 and DC4 in this regard.

**d) Highway safety**

40. The increase in vehicle movements over and above the existing levels associated with the fish and chip business is unlikely to be sufficient to warrant and highway safety concerns, as takeaway food businesses usually generate a higher rate of vehicle trips than seated restaurants with an associated faster rate of short duration parking which turns over frequently.
41. Previous DfT guidance on Transport Assessment thresholds advised that the then A3 use class (Restaurants and cafés) – (now class E) does not require formal assessment for developments of under 300Sq m. Given the overall floor space of 105 Sq. m, it is accepted that this is significantly under the accepted threshold to require a formal Transport Statement (TS), and therefore the additional trips generated can be accommodated on the highway network without requiring further assessment.
42. It is however evident that additional parking demand is anticipated as part of the proposal. The application is not able to offer any on-site parking provision and as such all-parking demand will need to be accommodated offsite, within unallocated parking on the public highway. The Tees Valley Design Guide advises on the recommended level of provision for particular use classes and end users. For cafes/restaurants, it is advised

that 1 space should be provided per two seats, with an additional 1 space per 5m<sup>2</sup> public floor area for bar use.

43. There are 32 seats in the rear extension including outside on the external terrace which will obviously dependent upon weather and seasons being suitable for use, together with two seats to the deli / counter area. The 34 internal seats therefore equate to an additional maximum demand of 16 spaces, whilst seating within the front deli section, and potential for pass by customers buying sandwiches and takeaway coffees etc. are considered broadly comparable to the existing trips and parking demand associated with the current use as a fish and chip shop, as it is presumed that the shop/deli outlet will have some element of takeaway food & drink.
44. The extended opening hours are however noted *8am – 10.30pm being sought Monday-Saturday and Sunday 9am-4pm*. Unallocated parking is available on both side of the highway and located within a dedicated margin both sides of Church Row. Parked vehicles within these dedicated areas do not obstruct the through movement of traffic, as it is not within the running carriageway.
45. An increase in parking demand within this area is not therefore considered a highway safety concern but may displace other uses during times of high demand. Having visited the site at 2pm (22nd January) to observe what free car parking capacity was available, approximately 20-22 parking spaces were available on the southern side Church Row, between the Emmerson Arms and All Saints Church, all of which are within public highway under the control of DBC as Local Highway Authority.
46. Additional parking was available, on the northern side of Church Row, with approximately 12 spaces being available between No 1-33, which are located within a mix of village green and public highway. At the time of visiting the site the vacant on-street spaces were available on street within just 75m walking distance of the application address.
47. Most parking demand was centred around the physiotherapist and dentists (Nos 1&5 respectively) whilst the Fisheries and Emmerson Arms were not open at the time. It is cautioned however that this may not be representative of parking demand after 5pm when residents are at home, and other generators of parking demand such as pubs, the village hall and church are open or at peak trading times, as the area has historically been the subject of complaints from residents regarding the lack of available parking during evening hours.
48. The proposed extended opening hours may therefore cause issues for nearby residents who are reliant upon on-street parking, as very few dwellings have dedicated in curtilage parking. This is reflected in objection letters, and whilst the Highways Engineer does not find any reason to substantiate any road safety concerns, parking is a cause for concern for residents.

49. It is noted that some objection letters request that parking restrictions should be implemented to provide residential parking zones within the vicinity of the site. Such requests are always considered on a case-by-case basis but require separate consultation outside of the planning process and are subject challenge of affected parties. As such the delivery of such measures cannot be secured as part of a planning application. The criteria for implementing an RPZ requires evidence of all day commuter parking, associated with hospitals or colleges etc. The Highways Engineer would also caution that whilst RPZs may be a useful tool in protecting residential amenity, there may be other detrimental impacts as the Village Hall, other business and their customers would be unable to use otherwise vacant spaces within RPZ restrictions.
50. Whilst parking is the major concern in the consideration of the application, there is no substantive evidence to conclude that safety highway concerns are currently apparent or will be caused by this proposal. A review of the most recent 5-year period of recorded accident data, demonstrates that there has been just one recorded incident injury collision within the 30mph extents of the village, located at the junction Strait Lane & Church Lane and recorded as 'minor' injuries only.
51. On this basis there is no evidence to substantiate highway safety concerns or to conclude that they will arise from the low levels of additional traffic generated by the proposals. Whilst there will inevitably be some increase in vehicle movements, in comparing this location with other much busier locations on the highway network, such as West Auckland at Cockerton or the A167 North Road, both of which have restaurants and other commercial businesses which are often reliant upon on street parking.
52. The substantive concern is therefore a matter of amenity, and if it is considered that the increase in parking demand over current levels can be accommodated on the highway without inequitable displacement of existing residents who are reliant upon on-street parking.
53. The Highways Engineers own observations are that parking demand between businesses and residents is likely to be able to be accommodated during day times, however, once residents are home from work after 5pm onwards and evening trade is busy, demand may exceed available provision. Understandably residents will prefer to park on the highway directly outside of their homes where available. Parking on the highway where permitted is on a first come first served basis, not a right and will need to balance the needs of residential parking and the need to provide local services and amenities within the village.
54. The Highways Engineer has sought clarification on how refuse storage and access is to be provided within the constraints of the site, with the requirement that bins must not be stored within the highway or other locations which cause obstruction or nuisance. The applicant has confirmed that this would be stored in the rear courtyard and accessed via the existing covered passageway. (between the buildings). This is the current arrangement / location for the fish shop. A planning condition is recommended

to secure submission and agreement of this detail to ensure that it is in place prior to occupation and retained as such thereafter.

55. In view of the above, whilst it is acknowledged that displacement of parking for residents may be an outcome of the application, there is no highway objection in terms of highway safety and availability of parking for the demands of the proposal and the application is therefore considered acceptable in terms of policies DC1 and IN4 in this regard.

**e) Impact on trees**

56. An Arboricultural Impact Assessment and Method Statement undertaken by Arbux Consultancy was submitted in support of the application. The report sets out that no trees are required to be removed to facilitate the development however some minor access facilitation and pruning works are required to three individual trees. The report sets out that existing trees are to be protected during construction through protective measures including fencing and ground protection. It is recommended that the methods as set out in the above report are secured by planning condition.

57. The Council's Arboricultural Advisor has raised the issue of access during construction works, with the concern that access could be taken through the cemetery which could have resultant impact on trees within this adjacent site, due to ground compacting and damage to roots. The applicant has confirmed that it is the intention to take all construction access through the passageway between 12 and 14 Church Row, however this issue can be addressed formally through the Construction Management Plan condition recommended in section c) of this report.

**f) Biodiversity**

58. An Ecological Impact Assessment (EclA) completed by Dendra Consulting Limited, has been submitted in support of the application. The assessment made the following broad conclusions:

- Data searches did not reveal the presence of any protected or priority species on the site. The data searches revealed the presence of a single locally designated site in the surrounding 2km, located 1.9km from site.
- No impacts on any designated sites are predicted.
- Additionally, a check of SSSI Impact Risk Zones (IRZ), as determined by Natural England on the MAGIC website, concluded that no consultation with Natural England was required for this development.
- The site consists of an active fish and chip shop with dwelling houses attached. To the rear was a mixture of vegetated and unvegetated gardens. Beyond the red line boundary was a steep bankside down to the River Tees which lies 16m from the red line boundary. The following habitat types, as defined in the UK Habitats guidance, were

present on site. x u1 (828) Vegetated Garden x u1 (829) Unvegetated garden x u1b5 Buildings 1.0.4

- The above habitats are locally and nationally common and widespread and have little ecological value.
- The site has no potential for protected species. A bat risk assessment has concluded that the building is a negligible risk.
- Consideration was given to otter, and it was concluded that impacts were unlikely to be significant.
- Himalayan balsam was found on the site. It is an offence under the Wildlife and Countryside Act to plant this species or cause it to grow in the wild. Advice must be sought from a specialist contractor prior to clearing any vegetation or moving any soil from the site.
- The following ecological impacts have been identified on site: i) The spread of an invasive plant species listed on schedule 9 of the Wildlife and Countryside Act.
- Avoidance, mitigation, and compensation measures have been recommended including Specialist advice to be sought relating to Himalayan balsam, installation of integrated bat and bird boxes in the proposed new extension.
- The current on-site biodiversity baseline shows a result of 0.02 Habitat units.
- There are no hedgerow or watercourse units.
- A proposed habitat plan has been prepared which shows the retention and extension of the vegetated garden area. Taking this into account the proposals will result in a net increase of 50.11%. Additionally, the habitat trading rules will be met.
- No habitat management and monitoring plan is required for the proposed vegetated garden.

59. The Ecology Officer is satisfied with the Ecological Impact Assessment (EclA) completed by Dendra Consulting Ltd. The EclA has been completed using best practice guidelines and in line with current legislation. The results are sound, and as such, it is advised that the recommendations are followed in full, which can be secured by planning condition. In terms of Biodiversity net gain, a nationally imposed condition is included as an informative (this is dealt with under other legislation and so officers have been advised that an informative is the most appropriate way to ensure that the developer addresses this requirement at the appropriate time).

60. Subject to the above, the proposal complies with policies ENV7 and ENV8 in this regard.

**g) Flood Risk**

61. A Flood Risk Assessment undertaken by RAB consultants was submitted in support of the application. The assessment indicates the following:

- A comparison of ground levels against the provided 1D fluvial flood data shows that the proposed site is expected to remain dry for all modelled events up to and including the extreme 0.1%AEP.
- All other sources of flood risk have been considered and fluvial is the primary source of flood risk.
- The ground floor of the existing building is sufficiently elevated above the modelled design flood level.
- Therefore, the ground floor of the proposed extension should be set no lower than existing.
- Safe, dry access is expected to be viable in most circumstances.
- Flooding on Church Row is possible in an extreme 0.1% AEP surface water flood event with depths of less than 0.15m predicted, equating to a 'low hazard.'
- The proposed development will have no impact on surface water runoff and local flood risk given that it is a minor extension.
- There is however some scope to incorporate small SuDS components which would provide a small degree of betterment to downstream receptors.
- It is concluded that the site offers scope to deliver the proposed development such that it will be appropriate for the flood risk and is not expected to increase the risk of flooding elsewhere.

62. The report makes the following recommendations:

- Maintain the ground floor level of the existing building (29.90mAOD1 ) and set the proposed extension ground floor no lower than this level.
- The site owner should sign up to receive Environment Agency Flood Alerts.
- Review the use of small retrofit SuDS components when making any modification to the existing surface water drainage scheme.
- Construction (Design and Management) Regulations 2015: o the revised CDM Regulations came into force in April 2015, which defines the duties for all parties involved in a construction project, including those promoting the development. One of the designer's responsibilities is to ensure that the client organisation, in this instance Ward and Sons Ltd, is made aware of their duties under the CDM Regulations.

63. The Environment Agency have raised no objections to the proposed development. The proposal is considered to comply with policy DC2, and it is recommended that a planning condition be attached to any approval requiring the recommendations of the FRA are implemented.

## **THE PUBLIC SECTOR EQUALITY DUTY**

64. 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.

## CONCLUSION AND RECOMMENDATION

65. The proposed development involves investment in an existing rural business. It complies with the relevant policies in the development plan and subject to conditions is acceptable in respect of highway safety, visual amenity, residential amenity, flood risk and biodiversity.

### THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3-year time limit)
2. PL (Accordance with Plan)

1001-18 Proposed plans  
1001-19 Site Location Plan

3. B4 (External Materials)
4. Notwithstanding any details referred to in the submitted plans, prior to the insertion of windows, detailed plans showing the constructional details and materials of all window frames to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. Such plans should indicate, on a scale of not less than 1:20, the longitudinal and cross-sectional detailing, including means of opening, and external reveal. The window frames shall be installed in accordance with the approved detailed plans and thereafter be so maintained.

REASON - To ensure a satisfactory appearance to the development, in the interests of visual amenity.

5. The number of covers within the rear dining area, including the rear terrace, as set out on Drawing Number 1001-18, shall not exceed 32 at any time without the prior written approval of the Local Planning Authority.

REASON – In the interests of residential amenity and highway safety.

6. The areas shown on Drawing Number 1001-18 as 'storage' to the first floor of No. 12 Church Row and to the ground and first floor of No. 14 Church Row, shall be used for storage associated with the use of the premises as a deli / café / restaurant and shall at no time be accessed by customers / patrons without the prior written approval of the Local Planning Authority.

REASON – In the interests of residential amenity and highway safety.

7. No construction activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00-18.00 Monday to Friday, without the prior written permission of the Local Planning Authority.

REASON – In the interests of amenity.

8. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. the parking of contractors' site operatives and visitor's vehicles;
2. areas for storage of plant and materials used in constructing the development clear of the highway;
3. details of site working hours;
4. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
5. Measures to ensure safety of the public including pedestrian routes/site fencing.

REASON – In the interests of amenity and public safety.

9. Once details of any new plant to be installed as part of the development are known and in any event prior to installation, an assessment needs to be carried out and submitted to the Local Planning Authority to show that the rating level ( $L_{A,T}$ ) of any external plant, equipment or machinery associated with the development (whether operating individually or simultaneously) shall not exceed the daytime and night-time background sound level ( $L_{A90,T}$ ) at noise sensitive receptors. The assessment must be carried out by a suitably qualified acoustic consultant/engineer (appointed by the applicant) and be in accordance with BS4142: – 'Method for rating and assessing industrial and commercial sound'. The noise sensitive receptors and background sound levels to be used in the BS4142 assessment shall be agreed in advance with the Local Planning Authority.

Any mitigation measures shown to be necessary following the assessment shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained and maintained for the life of the development.

REASON – In the interests of amenity.

10. Prior to commencement of the use hereby approved, details of the ventilation and fume extraction system to be installed, which is suitable for the proposed development including a full technical specification by a suitably qualified technical person, specifying the position of ventilation, fume or flue outlet points and details of the odour abatement system shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the ventilation and fume extraction system(s) associated with the use shall not be carried out otherwise than in accordance with the approval given and shall be completed prior to any part of the use hereby permitted being occupied. The ventilation and extraction system shall be operated and maintained in accordance with



the manufacturers recommendations including the frequency of replacement of any filters.

REASON – In the interests of amenity.

11. Drainage serving kitchens in commercial hot food premises should be fitted with a grease separator complying with BS EN 1825-1 and designed in accordance with BS EN 1825-2 or other effective means of grease removal.

REASON – In the interests of amenity.

12. Operating hours for the premises (including deliveries) shall be restricted to 8am – 10.30pm Monday-Saturday and Sunday 9am-4pm unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of amenity.

13. Prior to the occupation of the development, details of refuse storage shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed details and retained as such thereafter.

REASON – In the interests of amenity and highway safety.

14. Prior to the use of the external terrace hereby approved, details of screening to the eastern side of the external terrace, to protect the amenity of nearby occupiers, shall be submitted to and approved in writing by the Local Planning Authority. The screening shall be in place prior to the first use of the external terrace and shall be retained as such permanently thereafter.

REASON – In the interests of residential amenity.

15. The development shall not be carried out otherwise than in complete accordance with the recommendations and methods set out within the Arboricultural Impact Assessment and Method Statement (Arbux, September 2024) unless otherwise approved in writing by the Local Planning Authority.

REASON – To ensure adequate protection to existing trees.

16. The development shall not be carried out otherwise than in accordance with the mitigation, compensation and enhancement measures set out in the submitted Ecological Impact Assessment (Dendra Consulting, October 2024) unless otherwise agreed in writing by the Local Planning Authority.

REASON - To provide ecological protection and enhancement in accordance with the Conservation Regulations 2010, Wildlife & Countryside Act 1981, Policies ENV7 and ENV8 of the Darlington Local Plan 2016-2036.

17. The development shall be carried out in accordance with the recommendations set out within the submitted Flood Risk Assessment (RAB, October 2024) unless otherwise agreed in writing by the Local Planning Authority.

REASON – To secure adequate flood protection measures for the proposed use.

## **INFORMATIVES**

### **Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Darlington Borough Council.

Based on the information available this permission is one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

### **Other permissions from the Local Planning Authority**

It should be noted that this permission does not give consent for the proposed advertisements indicated on the submitted plans. Advertisements are covered by a separate process under the advertisement regulations, and as such, where Advertisement consent is required, a separate application for Advertisement consent should be submitted.