

SEDGEFIELD BOROUGH COUNCIL

DEVELOPMENT CONTROL
COMMITTEE

8 DECEMBER 2006

RECENT PLANNING APPEAL
DECISIONS

Report of Director of Neighbourhood
Services

The following recent planning appeal decisions are reported for the information of the Members:-

AP/2006/0007

The Appeal was made by Mr Yaqoob against the Refusal issued by Sedgefield Borough Council for the Change of Use to Hot Food Takeaway at 1A Eden Terrace Chilton Co Durham

In the Inspector's decision letter dated 16 November 2006, attached to this report, the Appeal was Dismissed.

RECOMMENDATION: That the information be received.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

LIST OF BACKGROUND DOCUMENTS USED IN THE PREPARATION OF REPORT

All relevant Planning Files listed in report.



Appeal Decision

Site visit made on 7 November 2006

by **Anthony J Wilson** BA(Hons) MA DipLA MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date: 16 November 2006

Appeal Ref: APP/M1330/A/06/2020271

1A Eden Terrace, Chilton, Ferryhill, County Durham, DL17 0EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Yaqoob against the decision of Sedgfield Borough Council.
- The application Ref: 7/2006/0108/DM, dated 11 February 2006, was refused by notice dated 18 April 2006.
- The development proposed is the change of use to a hot food takeaway and rear ducting.

Decision

1. I dismiss the appeal.

Reasons

2. The appeal site is an end of terrace property and comprises a ground floor retail unit with a residential flat above. Since the application was made, the neighbouring commercial property in the terrace to the north has been renovated and, whilst a single shop unit has been retained in the immediately adjacent ground floor, the remainder of the building now comprises newly-refurbished residential accommodation. All of the other properties in the terrace are also in residential use and dwellings occupy the main road frontages to either side of The Crescent, directly opposite, and across the rear service lane, in Dale Street. Whilst there are other commercial properties on the Durham Road frontages to the south, I agree with the Council that the immediate area of the appeal site is predominantly residential in character. In my opinion, it is important that the residents of houses in the locality should be able to enjoy their homes without unreasonable interference from other land uses and the policies of the Sedgfield Borough Local Plan quite properly seek to ensure that this is so.

Noise and disturbance

3. In response to the Council's concern about the noise and disturbance from car-borne customers, I have noted the appellant's indication that most of the proposed trade from the takeaway enterprise would be delivering telephone orders. However, I consider that any successful takeaway business would also be likely to attract a significant number of personal callers. Moreover, in my experience, these customers would be most likely to use a private vehicle and, in common with the drivers of any, in-house, delivery vehicles, they would seek to manoeuvre and park as close to the outlet as possible. In this case, The Crescent provides the most likely turning opportunity and the closest available street parking spaces lie directly outside the terraced dwellings to the north of the site.

4. I acknowledge that these nearby dwellings would be subjected to some noise from traffic using Durham Road and The Crescent. However, I consider that there would be further, additional noise and disturbance arising from the regular movements of an increased number of calling vehicles to the premises as they stop, start and manoeuvre, together with the inevitable opening and closing of doors. This harmful activity would be readily noticeable in these neighbouring dwellings and would be particularly marked towards the end of a normal working day and into the evening, when local residents would be expecting to rest and relax in their homes. I conclude, therefore, that the proposal would cause unacceptable noise and disturbance to the occupiers of the neighbouring dwellings, in conflict with development plan policies.

Odour

5. The proposed extract ventilation for the cooking range would be ducted through a flue to be located on the back wall of the property. The proposed flue would thus be facing towards the relatively narrow rear service lane, which is enclosed and closely confined by the backs of a significant number of terraced houses which front on to both Eden Terrace and Dale Street. Several of these homes have outlooks from their main habitable rooms, over their rear yards and the service lane, towards the appeal site.
6. I am aware that it is possible to effectively reduce the harmful impact of cooking odours by a modern, extract ventilation system which is regularly and carefully maintained in accordance with the manufacturers' specifications. I also recognise that the attendant noise arising from this type of ventilation system can be mitigated to certain extent by various attenuation measures. Nevertheless, I consider that the area at the rear of the site is so closely confined by the arrangement of the surrounding residential buildings that any adverse effects from the flue would be particularly noticeable. As a consequence, I have no doubt that the occupiers of these nearby houses would be aware of the noise from the normal operation of the flue whenever the premises was open for business. Moreover, I am not convinced that any residual odours that may be emitted from the flue from time to time would be successfully dissipated within this confined space to the extent that residents would not be affected by them. I conclude, therefore, that the operation of the flue would also harm the living conditions of the occupiers of the neighbouring dwellings, at variance with development plan policies.

Other matters

7. I also note from the representations from local residents that congregation is already an issue in association with other food and drink outlets in the locality. Notwithstanding the best intentions of traders, regrettably, takeaway premises do act as a focus for this type of activity and such a use at the appeal site could bring this recognised problem closer to the nearby homes. This merely adds to my concerns that the proposal would be harmful to the living conditions of the occupiers of the nearest residential properties.

Anthony J Wilson

INSPECTOR

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