

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/00639/FPA
FULL APPLICATION DESCRIPTION:	Erection of glazed extension with bifold doors and rotating roof blades to provide enclosed shelter to existing outdoor courtyard seating area
NAME OF APPLICANT:	Mr Hossein Farahi
ADDRESS:	Luciano Bar And Bistro Durham Way Peterlee SR8 1QB
ELECTORAL DIVISION:	Passfield
CASE OFFICER:	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a large, detached building currently in use as a bar and restaurant which is sited on the junction of Durham Way and Oakerside Drive, Peterlee. The building sits within a small local centre that includes a community centre, convenience store, hot food takeaway and hairdressers situated to the north. Access is taken via Oakerside Drive to the west and is served by a large car park to the side and rear of the application building.
2. The building has recently undergone a degree of refurbishment with planning permissions DM/17/03630/FPA & DM/17/02062/FPA granted in 2017 for extensions and alterations.

The Proposal

3. Planning permission is sought for the erection of a single storey glazed extension to the southern elevation to provide an enclosed shelter to an existing outdoor courtyard/seating area, which would measure approximately 6.7m by 4.5m with an overall height of 3m. It would incorporate bi-fold doors and rotating roof blades to allow the structure to be used year-round.
4. Current access arrangements and opening hours would remain unaltered by the proposal, although the additional floor area would result in the creation of 1 no. full time and 2 part time employment positions.

5. The application is reported to planning committee at the request of Cllr Hawley who considers issues in relation to noise, disturbance and neighbouring residential amenity to be such that the application should be determined by the planning committee.

PLANNING HISTORY

6. DM/17/02062/FPA - Single storey extension and alterations to external appearance. Approved 17.08.2017.
7. DM/17/03630/FPA - Single storey extension and alterations to external appearance (Resubmission of Planning Application DM/17/02062/FPA to incorporate larger rear extension)/ Approved 21.12.2017.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

8. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
9. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. NPPF Part 6 – Building a Strong, Competitive Economy – The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenge of global competition and low carbon future.
11. NPPF Part 12 - Achieving Well-Designed Places. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

13. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of

particular relevance to this application is the practice guidance with regards to: design process and tools; determining a planning application; natural environment; neighbourhood planning; noise; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan

14. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
15. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
16. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards
17. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

Neighbourhood Plan

18. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

19. None required.

INTERNAL CONSULTEE RESPONSES:

20. Environmental Health (Nuisance Action Team) – whilst offering no objection to the application noted that the development could potentially result in a statutory nuisance as a result of noise from the development, both from music and patrons. In order to sufficiently mitigate the impact of the development in this regard the inclusion of planning conditions is advised. These relate to the submission and agreement of noise mitigation and management measures, restriction to the playing of amplified music, bi-folding doors and roof blades to remain closed between the hours of 21:00 to 10:00 on any day, external access (excluding emergency access) to the pergola extension prohibited between the hours of 21:00 and 10:00 and no external lighting to be affixed to the pergola that would interfere with adjacent residential properties.

PUBLIC RESPONSES:

21. The application has been advertised by means of site notice and by notification letter to neighbouring residents.
22. Two letters of representation have been received in relation to the application. The concerns raised are summarised as follows:
 - the extension will lead to an increase in noise levels
 - impact on amenity of neighbouring residents
 - increased anti-social behaviour including inappropriate language from patrons
 - concern around noise management and monitoring

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

APPLICANT'S STATEMENT:

23. None provided

PLANNING CONSIDERATIONS AND ASSESSMENT

24. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on residential amenity, visual amenity, parking and highway safety.

25. The NPPF is a material planning consideration in this regard and advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF. Paragraph 11 requires development which accords with an up-to-date Local Plan to be granted planning permission without delay.
26. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area along with the Durham City Neighbourhood Plan which is also now adopted, both are the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP and NP.

Principle of Development

27. Paragraph 80 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
28. Policy 6 (Development on Unallocated Sites) of the CDP states the development of sites which are not allocated in the Plan and are either (i) within the built-up area; or (ii) outside the built-up area but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and certain other criteria including:
 - a) is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b) does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c) does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d) is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e) will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f) has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g) does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h) minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i) where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j) where appropriate, it reflects priorities for urban regeneration.
29. The site is located within the built-up area and the proposed single storey extension would relate to the existing premises and outside courtyard. As such, the development is considered to be compatible with the existing use and would not result in the loss of open land in accordance with criteria 'c' of policy 6. In terms of scale, design and layout it is considered to be appropriate and given the existing level of parking provision would not be prejudicial to highway safety, or have a severe residual cumulative impact on network capacity in compliance with criteria 'd' and 'e'. The existing premises is considered to be situated in a sustainable location close to bus stops and other

services in accordance with criteria 'f'. Criteria 'b' and 'g-j' are not considered to be relevant to this application.

30. The extension would be used in direct association with the existing use and therefore the principle of development is supported by Policy 6 subject to detailed consideration of the issues listed below.

Impact on Residential Amenity

31. Paragraph 126 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users. Paragraph 180 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment and in doing so should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life.
32. In accordance with this, Policy 31 (Amenity and Pollution) of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and can be integrated effectively with any existing business and community facilities. Policy 29(e) requires development to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 6 (a) states that development on unallocated sites will be permitted provided the proposal is compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land.
33. The existing building is detached. However, it is located in a predominantly residential area with the nearest neighbouring dwellings located to the north and east on Dormand Drive, to the south (beyond Durham Way) on Lumley Drive, and to the west (beyond Oakerside Drive) on Calley Close.
34. The Council's Environmental Health Nuisance Action Team (EHNAT) were consulted on the proposals and advise that the information submitted indicates that the development is likely to breach the thresholds within the TANS (Noise TANS section 3.7 pg. 18). This indicates that the development may, without further controls, lead to a significant impact. The EHNAT Section also note that the premises have been subject to noise complaints in the past, principally relating to noise associated with the playing of music and vocalisation of patrons.
35. The EHNAT Section commented that the application would see the enclosure of an existing outdoor seating area to extend the amount of indoor seating available, and as such is therefore likely to lead to an increase in noise audible at nearby sensitive receptors due to an intensification of the use. The extension would provide an enclosure with opening bi-fold doors, windows and rotating roof blades, as such, noise can potentially escape through the doors and rotating roof blades.
36. Whilst the applicant has submitted a document entitled 'Noise Management Statement', the EHNAT Section note that no detail has been provided in relation to the sound reduction value of the glazing and the statement does not include details of actual management of noise, provides little substance in the way of management procedures, trigger levels, risk assessment and control measures. In addition, they assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance and advised that the granting of

planning permission for the development may potentially result in a statutory nuisance being created due to noise escape from the use of the development, both from music and patrons.

37. However, the EHNAT Section considers that the development could be managed and the impact upon nearby sensitive receptors mitigated through planning conditions requiring appropriate controls. In this regard they recommended conditions to control the playing of amplified sound/music/live music within the extension and on the associated terrace; restrictions to the hours the windows, doors and roof blades can be opened; restriction to the hours patrons can access and egress the extension via the bi-fold doors; and the positioning of any external lighting.
38. In addition, it was also agreed with EHNAT to address the concerns raised by them that conditions should be included requiring a Noise Management Plan, including details of noise management procedures and control measures, and details of the acoustic performance/sound reduction measures to be incorporated into the construction of the extension to be submitted and agreed with the LPA.
39. On that basis, subject to the inclusion of the conditions outlined above, it is considered that the impacts of the development upon nearby sensitive receptors could be sufficiently mitigated to adequately prevent any unacceptable adverse impact in this regard in accordance with the requirements of paragraph 180 of the NPPF and Policies 29 and 31 of the County Durham Plan.

Visual Amenity

40. Paragraph 124 of the NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
41. In line with this, Policy 29 (Sustainable Design) of the CDP requires all development proposals to achieve well designed buildings and places having regard to the Council's Supplementary Planning Documents and sets out 18 elements for development to be considered acceptable, including making positive contribution to areas character and identity.
42. The proposed extension would be sited to the southern elevation of the existing building and would extend into the existing terrace/courtyard used by patrons of the existing restaurant and bar. The extension would be of a glazed construction incorporating bi-fold doors and roof blades within a flat roof.
43. Due to the siting of the extension, it would be visible from Oakerside Drive to the west and Durham Way to the south, and from neighbouring properties. However, given its glazed design and modest height, it would be a subservient addition to the existing building and as such would not appear too prominent within the street scene. In addition, the existing hedge would provide some screening from the highway.
44. The resulting extension would therefore represent an acceptable addition to the existing building which would not appear as an incongruent addition in the surrounding street scene or have any unacceptable adverse impact upon the character and appearance of the surrounding area in accordance with the aims of paragraph 124 of the NPPF and Policy 29 of the CDP.

Parking and Highways Safety

45. Paragraph 110 of the NPPF requires new development to provide safe and suitable access to the site. Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network.
46. The existing site is accessed from Oakerside Drive to the west and is served by a large car park to the side and rear of the premises. Both the access and existing parking would be unaffected by the development and as such it is considered that there is sufficient parking provision relative to the proposed development. There are also bus stops in walking distance of the site on Durham Way.
47. On that basis, the proposals could be safely and satisfactorily accommodated without adverse impact upon highway safety and as such is considered compliant with Policy 21 of the CDP and paragraph 110 of the NPPF.

CONCLUSION

48. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
49. In this instance, given the scale and siting of the proposed extension, it is not considered that it would have any harmful impact on the character and appearance of the surrounding area, highway safety and residential amenity subject to the conditions listed, in accordance with Parts 6, 12 and 15 of the National Planning Policy Framework and Policies 6, 29 and 31 of the County Durham Plan.
50. Whilst the concerns raised by neighbouring residents are noted, for the reasons detailed within this report it is considered that these can be addressed by appropriate planning conditions and as such are not considered sufficient in this instance to sustain refusal of the application.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

3. There shall be no amplified sound, pre-recorded music or live music played within the extension or associated outdoor terrace/courtyard hereby approved.

Reason: In the interests of the residential amenity of the surrounding area in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

4. The bi-fold doors, windows and rotating blades within the roof contained within the extension hereby approved shall remain closed between the hours of 21:00 and 10:00 hours on any day.

Reason: In the interests of the residential amenity of the surrounding area in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. There shall be no direct, external access or egress from the extension hereby approved (excluding those in response to an emergency) between the hours of 21:00 to 10:00 hours on any day.

Reason: In the interests of the residential amenity of the surrounding area in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

7. There shall be no external lighting affixed to the extension hereby approved until such time as full details of these have been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of the residential amenity of the surrounding area in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

9. Prior to the first use of the development hereby approved a Noise Management Plan, including details of noise management procedures and control measures, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed measures shall be fully implemented and adhered to at all times for the lifetime of the development.

Reason: In the interests of the residential amenity of the surrounding area in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

10. No development shall commence until a scheme detailing all acoustic performance/sound reduction measures to be incorporated into the construction of the extension hereby approved shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed measures shall be fully implemented and retained for the lifetime of the development.

Reason: In the interests of the residential amenity of the surrounding area in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant.

Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)



<p>Planning Services</p>	<p>Luciano Bar And Bistro Durham Way Peterlee SR8 1QB</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100049055 2005</p>	<p>Erection of glazed extension with bifold doors and rotating roof blades to provide enclosed shelter to existing outdoor courtyard seating area.</p>	
	<p>Date July 2022</p>	<p>Scale NTS</p>