

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/12/00149/FPA
FULL APPLICATION DESCRIPTION:	Proposed timber storage shed and flue associated with extraction system and retention of solar panels, fridge, freezer, storage container and hard standing to rear
NAME OF APPLICANT:	Executive Catering and Coach Services
ADDRESS:	107A High Street, Carville, Durham, DH1 1BQ.
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Tim Burnham, Planning Officer, 03000 263963 tim.burnham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

This application was previously considered at the Area Planning Committee (Central and East Durham) meeting held on 11th September 2012. A decision was deferred to allow further investigation of issues raised by objectors. Since then, revised details of an extraction system have been considered and consulted upon and this report incorporates appropriate changes to address the issue and other matters subsequently raised by objectors. Changes to the previous report are highlighted in **bold**.

SITE:

1. The application site is 107A High Street, Carville, to the east of Durham City Centre. The building is of two storey construction, with a large garage space to the south west facing elevation. To the rear of this garage sit two further single storey flat roof structures. Various plant and structures exist within the back area of the site and are detailed below. To the rear of the property there are grassed and hard standing areas. Vehicular access to the rear area is taken from a garage door on the adjoining side street **which is adopted**. The site sits within a busy mixed use local high street location. There is a large amount of residential accommodation that surrounds the site. Residential properties bound the premises indirectly to most elevations, across Carville High Street, to the south of the premises separated by an access road and further to the east at Broome Road. Site levels are relatively flat.

PROPOSAL:

2. The application seeks consent to retain 15 Solar panels which have been placed on single storey flat roofed structures to the rear of the main buildings. The panels are free standing, mounted on brackets to face south / south west. The panels project above the flat roof by 68cm and each measure approximately 1.6m in width.
3. To the rear of these outbuildings sits a shipping container, used for storage. This measures approximately 2.4x2.4m and stands at approximately 2.8m in height. Further

round in the rear yard an external fridge and freezer have been placed. These measure approximately 2.1m x 3.2m standing at a height of 2.1m. A Hard standing area has also been developed to accommodate this plant and parked vans and trailers used in connection with the business. Planning consent is sought to retain the container, fridge, freezer and area of hard standing.

4. Planning consent is sought to erect a timber storage shed to the rear of the hard standing area. This shed would measure 6 metres in width, 3m in depth and 3m in height. The removal of one tree is proposed to accommodate this shed. Planning permission is also sought to erect an extraction flue which would be placed above the existing single storey garage to the side of the premises. **This flue would exit the front facing roof slope and extract above the ridge line of the main building.** The garage internally would be fitted with large extraction hood and extraction system would be fitted with a fan to aid odour removal.

5. This scheme is being reported to committee at the request of the local divisional member.

PLANNING HISTORY

6. In March 1986 Planning permission was granted for a change of use to 'preparation and production of food for outside catering, coach companies and retail outlets'. No opening hours were specified upon the granting of this planning permission. An application for an extension to provide an office and reception area together with lean to store and car parking to rear garden was refused in 1989. In 1990 an application for change of use from residential to reception and office in connection with catering business was refused. **Various enforcement notices were served in relation to the site from 1990 in relation to an application for 'change of use from residential to reception and Office in connection with catering businesses'. However these notices were appealed and were quashed by the Planning Inspectorate who deemed the use ancillary to the previously granted 1986 approval.** In 1993 planning permission was granted for single storey pitched roof extension to side to form a garage.

PLANNING POLICY

NATIONAL POLICY

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'

9. The following elements is considered relevant to this proposal;

10. *NPPF Part 7 – Requiring Good Design.* 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.

REGIONAL PLANNING POLICY

11. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008*, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

12. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the forthcoming Local Government Bill becomes law. Both the RSS and the stated intention to abolish are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. Policies of particular relevance to this application are as follows:

13. **Policy 4 (Climate Change)** seeks to promote measures to tackle climate change amongst other policy it seeks to encourage renewable energy capacity.

14. **Policy 8 (Protecting and Enhancing the Environment)** seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.

15. **Policy 39 (Renewable Energy Generation)** seeks to increase the renewable energy generation capacity of the North East.

LOCAL PLAN POLICY:

16. **Policy E14 (Trees and Hedgerows)** requires that trees or hedgerows of value that are lost during development should be replaced.

17. **Policy H13 (Residential Areas – Impact upon Character and Amenity)** states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

18. **Policy T1 (Traffic – General)** states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property

19. **Policy T10 (Parking – General Provision)** states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. The divisional member has expressed concerns surrounding the application. These concerns include vehicular movements and work being carried out late at night after 11pm, food preparation practises including hog roasting with associated unpleasant odours and the construction of outhouses and sheds within the grounds of the site. The same member has also expressed concerns relating to the difficulty that residents have accessing and egressing their dwellings to the side access lane due to the parking of vans and vehicles associated with the company.

21. Belmont Parish Council has objected to the planning application **and have again confirmed their ongoing concerns in relation to business practices at the site.** They are concerned as they deem that the site is becoming overly industrial and feel that the current use of the site is totally unacceptable. They have concerns over opening hours, the flue extraction system, noise from plant within the site, vehicular access, drainage, storage of gas cylinders, the solar array on the buildings, the hard standing area and feel that the proposed shed represents over development of the site.

INTERNAL CONSULTEE RESPONSES:

22. Environmental health has offered no objection to the application. They consider that the predicted fan noise will not have an adverse effect on the overall daytime noise levels. **They state that the ventilation flue should extend to at least ridge height to aid odour dispersal. Environmental Health suggests that a time restriction should be placed on the operating hours of the extraction system.** Highways development management has offered no objections to the application.

PUBLIC RESPONSES:

23. **9 Letters of objection and two letters of concern have been received in relation to the development.** Objectors have questioned perceived inaccuracies in the application form and suggest that the premises do operate outside the times specified on the application form.

24. Concerns have been put forward due occasional buzzing and low frequency vibration emanating from the existing fridge and freezer to the rear of the premises. Objectors state that this has made it difficult to leave windows open and sleep in the summer months.

25. Objections have been put forward regarding the extraction system due to concerns over noise and smell which it is suggested would emanate from it. Concern has been expressed over the positioning and height of the extraction system. Objectors have suggested the system could be a distraction to drivers, impacting upon highway safety. **Concerns have been put forward that the extraction flue would be too prominent and out of keeping with the character of the area in its revised format.**

26. Objections have been expressed over the proposed shed due to perceived reduction in views and amenity.

27. Objectors consider the business inappropriately placed and consider that an industrial unit would be a more appropriate location for the business. Objectors consider that the business has expanded to such a degree that it has outgrown the site.

28. Diversification into producing 'Hog Roasts' has also caused significant concern. Hog roasting has reportedly been taking place in the open air to the rear of the premises causing smell disturbance.

29. Objectors consider the site to represent a breach of the Human Rights Act.
30. Concerns have been expressed over the removal of trees to the rear garden.
31. Objectors state that there are significant vehicular movements associated with the site and these cause them concern. Vehicle movements early in the morning and late at night are reported to cause disturbance. These vehicular movements are reported to involve both company vehicles and goods supply vehicles. **Concerns are raised in relation to the side access used at the premises.**
32. Objections are put forward in relation to the hard standing area which has been placed to the rear of the premises and possible surface flooding associated with this.
33. Reduction in outlook and the change in outlook from the previous orchard garden causes concern to residents.
34. Concerns have been put forward that the solar panels are an eyesore and are inappropriately placed. Objectors consider them unsuitably placed and consider that they represent a danger to anyone who may climb onto the roof. Objectors claim these panels are not placed in accordance with planning guidelines.
35. Objectors have questioned the merit of the noise impact assessment that has been submitted relating to the installation of the extraction fan.
36. Concern has been expressed over the storage of gas cylinders.
37. Objections are put forward on the basis that property values around the site are seriously detrimentally affected by the development and current status of the site.

APPLICANTS STATEMENT:

38. New extraction unit

In September 2011 Mr John Dodds from Durham environmental health department visited our premises with regards to our mobile hog roast ovens. He wanted to see if it was possible to cook the pigs inside with an extraction fan that would ensure the cooking odours would be distributed at a higher level. I have personally worked closely with Mr Dodds and followed his instruction regarding the unit required. Per Mr Dodds requirements, the noise survey team www.emat.co.uk was hired by ourselves to ensure the extraction unit would not cause any disruption during operation.

39. Solar panels

In August 2012 we purchased a solar panel system. I was informed at that time that the system would not need planning permission. We paid for the installation in October 2011. Mr Tim Burnham from Durham planning department visited our premises regarding the new extraction system and advised me the solar panels would need planning permission because we are a commercial property. The solar panels help to reduce the running costs of the business, provide an environmentally friendly electricity supply and removes the need for power from the grid. This is beneficial to the area and the environment.

40. Walk in refrigeration and freezer units

These units have been on site for over five years and are required to store food safely as instructed by the environmental health department. Each unit has been installed with brand new

low level noise motors to minimise noise pollution. The noise effects were also monitored by the EMAT team and results showed no noise issue.

41. Storage unit

The storage unit has been on site for over 15 years and is required to store general catering equipment we use on a regular basis.

42. Garden shed

The new garden shed is required for all the items, which are currently stored in the garage as this is where the new extraction unit would be placed. I've worked closely with Mr Tim Burnham from the planning department to ensure any new changes would not effect neighbouring properties and impact the environment in any way.

The above 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 <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

43. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development of the site, and the impact of the development that is sought to be retained and proposed upon the character or appearance of the residential area, and the amenities of residents within the area.

Principle of development of the site

44. Planning permission was granted in 1986 to change the use of the premises to carry out the preparation and production of food for outside catering, coach companies and retail outlets. This type of use is deemed by Officers to fall within the B2 use class. Given that the business operation, although expanding, appears to be operating within the same basis, Officers do not consider that any change of use has occurred at the site in relation to the current use. This application therefore does not represent an application for change of use or retention of use. The application relates solely to the retention of existing developments at the site and to the provision of new development proposed.

45. The expansion of activities at the site has been given careful consideration by Officers and it appears that a noticeable point appears to have come this year with the expansion of the enterprise to accommodate Hog Roasts. This practice has been notified to Environmental Health and Planning Officers during the course of the year. Environmental Health officers have expressed concerns over this practice, leading to discussion between the business owner, Environmental Health and Planning Officers to look to find a solution to significantly reduce the impacts in terms of smell and disturbance of this practice on the Local Area.

46. A scheme involving converting the garage area has been put forward, with associated internal hood and extractor fan and flue. This would see hog roasts take place inside the garage where associated odour could be more appropriately managed through the installation of a purpose suited extraction system to extract odours to a suitable level for dispersion.

47. The storage shed is for additional storage space required should the garage area be used as a hog roasting area, as this area is currently used for storage.

48. The site does sit within a busy high street location and there are a variety of uses in place along the high street. Officers acknowledge that the surrounding area, however, to a large degree is residential. In terms of refrigeration equipment sited within the rear area, the placing of such equipment within residential areas is not uncommon and occurs frequently for example where shops requiring refrigeration on site sit closely to residential properties.

49. The use of solar panels is widely promoted through national planning policy and wider government guidance. The National Planning Policy Framework stated that local authorities should actively support energy efficiency improvements to existing buildings. There is no specific policy or guidance which dictates how or where solar panels should appear on commercial building, although permitted development tolerances are outlined at a national level. While Officers accept that the panels are apparent in appearance, solar panels rarely increase the attractiveness of a particular building and by their nature always appear incumbent upon the building upon which they are situated. **Concerns have been raised with regards to the safety of the solar panels, which do not require building regulations approval. The responsibility for the safety of the panels would lie with the applicant.**

50. Opening hours are specified on the application form as 0600-1700 Monday to Friday 0630 to 1700 Saturday and 0900 to 1100 on Sundays and Bank Holidays. The difficulty Officers have especially in relation to the reported current use hours is that the consent granted in 1986 did not restrict opening hours, therefore with this consent in place there is no opportunity to enforce opening hours at the site.

Impact upon character or appearance of the residential area, and the amenities of residents within the area

51. Policy H13 of the City Of Durham Local Plan states that planning permission will not be granted for new development which has a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. The supporting text to the policy states that residents can reasonably expect to enjoy a safe, secure and attractive environment. It states that development which generates for example pollution, noise, smell dust, traffic or parking on a scale not normally associated with residential areas will be resisted.

52. Officers consider that the solar panels which are proposed to be retained at the site although not necessarily complimentary in appearance do not have a significant adverse effect upon the appearance of the area. The utilitarian appearance of the panels is not totally at odds with the flat roofed structures on which they are placed and the panels are located to the rear to minimise visual impact and appearance from the high street to the front. Likewise, Officers do not consider that the retention of the storage container, fridge or freezer at the site would have a significant adverse impact upon the appearance of the area. Officers consider that the storage shed proposed would also be appropriate in relation to the appearance of the area. **While visible to surrounding dwellings on Broome Road and High Street**, the storage shed would be sited towards the centre of the site and would sit approximately 16m from properties to the rear on Broome Road and approximately 12m from 108a-110a High Street to the south.

53. With regards to the flue proposed to the south west facing gable elevation, Officers have given significant consideration to the siting of the flue and its potential visual impact upon the surrounding area. The visual impact has been carefully weighed against the benefits of providing a proper hog roast cooking area and extraction system. Officers consider that providing this facility would resolve issues of complaint regarding the site concerning odour and smell and consider that the positives of providing this system would outweigh the negative of the degree of visual intrusion that the flue would introduce **due to its height and location**

set against the main gable wall of the building. It is not unusual to see a flue of this type of design and appearance within a residential area when associated with a food preparation facility.

54. Environmental health officers have considered the flue and extraction proposals and consider that **the positioning of the flue towards at least ridge height of the building** will assist in the dispersal of associated odour. **The flue is proposed to extract above ridge height.** They have also given consideration to the extraction fan system and any associated noise that it could produce. The noise rating for the extraction fan is 51dB(a). This not a significantly high noise rating, and would be on par with the noise level that could be heard inside an average home. Environmental health considers that the predicted fan noise will not have an adverse effect on the overall daytime noise levels. The applicant has outlined that he intends to carry out hog roasting during day time hours only, between 7AM and 5PM.

55. Officers consider that the flue and extraction fan proposed would not have a significant adverse affect upon the amenities of residents within the area and consider that the proposals would assist in improving conditions for surrounding residents by discharging odour at a height that will aid its dispersal.

56. Officers have visited the site and observed the fridge and freezer in operation at various times. The units were not observed to be especially noisy and Environmental Health has offered no concerns over these in relation to noise issues. **Following a review of the planning history of the site, the side access to the premises which has caused concern for residents appears to be historic and has been in place for a period of time.**

57. Officers are aware that trees have been removed to the rear area. No formal consent was required from the council to carry out these works. One tree is proposed for removal to accommodate the shed, and a condition requiring replacement with a suitable alternative is attached to this report.

Other Matters

58. Many matters have been raised in objection letters regarding the established use of the site. These, for example, include access and parking issues, issues relating to storage of gas cylinders. These are not matters which would come under direct planning control and it is understood that other measures are being explored such as the provision of bollards to reduce such problems in relation to parking. Officers are not aware that any requirements for the safe storage of gas are being broken at the site, but again, this would not come under direct planning control. Objections are put forward on the basis that the development would negatively affect property prices in the surrounding area, however these concerns are not material planning considerations and should not be given weight when considering these proposals.

CONCLUSION

59. In summary, Officers consider the application acceptable in terms of the principle of the development. This is because the site has an established use with planning permission being granted for the current catering company use in 1986.

60. Officers consider that there would not be significant adverse effects on the character or appearance of the residential area, or the amenities of residents within it. This is because the provision of an extraction system and flue would reduce odour issues around the site. Noise that would be emitted from the system is considered to be within acceptable parameters in

the context of the surrounding area. **The revised extraction system has been fully assessed and account has been taken of residents' further concerns received following consideration of the previous report. A condition has been attached which restricts the operating hours of the extraction system, to minimise disturbance to nearby residents.**

61. Officers consider the application to meet the requirements of national and regional planning policy, and Policies E14, H3, T1 and T10 of the City of Durham Local Plan 2004.

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 extraction system proposed under this application shall not be operated outside the hours of 0700 to 1700 on any day of the week.

In the interests of the residential amenity of the area and to comply with Policy H13 of the City of Durham Local Plan 2004.

3. The tree to be felled shall be replaced with a suitable native species tree; the replacement planting shall be carried out within 12 months of the felling of the tree proposed under this application. The tree shall be planted and maintained in accordance with good practice to ensure rapid establishment, including watering in dry weather, and shall be replaced if it should fail within 5 years of initial planting, not later than the following planting season.

In the interests of the visual amenity of the area and to comply with Policy E14 of the City of Durham Local Plan 2004.

4. The development hereby approved shall be carried out in strict accordance with the following approved plans. Development shall also be maintained in accordance with the following approved plans;

(Block Plan of site as proposed, ISO Shipping container, fridge and freezer units, Solar Panels, timber storage shed, extraction vent received 13th February 2012. 03rd May 2012 and 21st August 2012 & Technical Note EMAT/TN/2012-5-16 & Extraction system specification received 29th May 2012)

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E14, H13, T1 & T10 of the City of Durham Local Plan 2004.

REASONS FOR THE RECOMMENDATION

1. It is considered that there would not be significant adverse effects on the character or appearance of residential area, or the amenities of residents within it while the developments would be appropriate in terms of Highway Safety in accordance with Policies E14, H13, T1 & T10 of the City of Durham Local Plan 2004

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008 and the City of Durham Local Plan 2004 which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

2. In particular the development was considered appropriate as it would be acceptable in terms of issues surrounding the establishment of the principle of development at the site and issues surrounding the character and appearance of the area and the amenity of surrounding residents.

3. Grounds of objection relating to the proposals were carefully considered but were not considered to be sufficient to lead to reasons on which to refuse the application in view of the accordance of the proposals with relevant development plan policies combined with appropriate planning conditions.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008

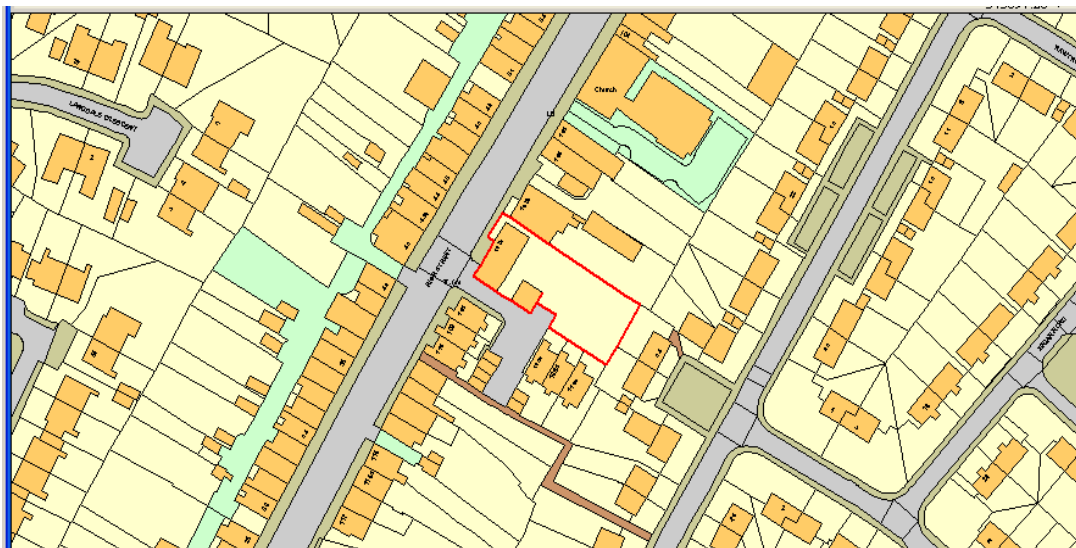
City of Durham Local Plan 2004

Responses from Objectors

Responses from Councillor and Parish Council

Response from Highways Development Management

Response from Environmental Health





Planning Services

Proposed timber storage shed and flue associated with extraction system and retention of solar panels, fridge, freezer, storage container and hard standing to rear

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Date 11th December
2012