

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/00978/VOC
FULL APPLICATION DESCRIPTION:	Variation of condition 2 of planning permission 6/2013/0135/DM/VP to extend opening hours to between 8.30am and 9pm on 35 days per year (Resubmission of refused application DM/14/00468/VOC)
NAME OF APPLICANT:	Mrs Karen Birch
ADDRESS:	The Laurels 16 High Green Gainford Darlington County Durham DL2 3DL
ELECTORAL DIVISION:	Barnard Castle East Tim Burnham
CASE OFFICER:	Senior Planning Officer 03000 263963 tim.burnham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The property is an existing coffee shop on the north side of the Gainford village green. Formerly a doctor's surgery, this Grade II listed building was granted planning permission for change of use to a coffee shop in 2005. The buildings either side are also grade II listed and the site lies within the Gainford Conservation Area. The coffee shop is accessed from the front where there is a paved patio either side of a path which leads from a short flight of steps to a central front door. The property is flanked to west by a dwelling at no.15 High Green and to the east by the Academy Theatre with flats above. To the rear is a courtyard which is overlooked by the kitchen and toilet facilities of the application premises, as well as other neighbouring properties and the village hall car park.

The proposal

2. The application is an unchanged resubmission of application DM/14/00468/VOC, which was refused under delegated powers on 28th January 2015. The application once again seeks variation of condition 2 of permission 6/2013/0135/DM/VP to extend the opening hours of the coffee shop until 9pm on 35 evenings each year. Condition 2 of 6/2013/0135/DM/VP was carried through from the original permission 6/2005/0327/DM and currently limits hours of opening from 8.30am to 6pm.

3. The proposed extension of opening hours would not apply to the use of seating on the outdoor patio as that is controlled separately by condition 3 of permission 6/2013/0135/DM/VP, which the application does not seek to vary. However, general use of the patio (congregation, comings and goings) would still be possible.
4. The application has been referred to the Planning Committee by Cllr Rowlandson who considers that planning officers, in acting under delegated powers to refuse the previous application, did not properly consider the impact of the proposal against the NPPF and it would be more appropriate for the Planning Committee to reconsider the proposal because of the history of the site.

PLANNING HISTORY

5. Since permission was first granted for the change of use to a tea room/café there have been a number of unsuccessful attempts, including a failed appeal, to gain planning permission for extension of opening hours as detailed below. In each case the applications were refused because of the impact on the residential amenity of neighbours from noise and disturbance.
6. When planning approval was granted for a change of use from Doctors Surgery to tea rooms in 2005 (6/2005/0327) opening hours were restricted to 08:30 – 18:00.
7. An application was refused in May 2008 (6/2008/0121) for the removal of condition 3 to enable the provision of outdoor seating, variation of condition 2 to extend opening hours to 23.00 and variation of condition 4 to allow functions.
8. An application was refused in August 2008 (6/2008/0297) for variation of conditions 2 and 3 to allow outdoor seating and extend opening hours to 20.00.
9. An application was refused in January 2009 (6/2008/0429) for variation of conditions 2 and 3 to allow outdoor seating on the east side of the patio only and extend opening hours to 20.00. An appeal against this decision was dismissed by the Planning Inspectorate.
10. An application was refused in November 2009 (6/2009/0319) to extend opening hours to 19:30, 50 days per year.
11. An application was approved in July 2013 (6/2013/0135/DM/VP) for a variation of condition 3 to allow outdoor seating on the east side of the patio with the use of the patio limited to the hours of 9am-5pm Monday to Saturday and 11am-4pm on Sundays. There was no change to the opening hours of the café.
12. An application was refused in January this year (DM/14/00468/VOC) to extend opening hours to 9pm on 35 days per year; the same as this resubmitted application.

PLANNING POLICY

NATIONAL POLICY

NATIONAL POLICY:

13. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). This supersedes all previous PPS and PPG documents. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
14. A key aim of the NPPF in chapter 1 is building a strong competitive economy. It says significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should act proactively to meet the development needs of business and support an economy fit for the 21st century. Another key aim in chapter 3 is supporting a prosperous rural economy. It says that local authorities should promote the retention and development of local services and community facilities that benefit businesses communities and visitors in rural areas.
15. In respect of impacts on amenity it is a core principle to secure a good standard of amenity for all occupants of land and buildings. Chapter 11 recognises the need to prevent development from contributing to unacceptable levels of noise and air pollution. Paragraph 123 specifically considers noise and the need to mitigate and reduce noise impacts.

The above represents a summary of those policies considered most relevant in the NPPF. The full document may be accessed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

LOCAL PLAN POLICY:

16. The Statutory Development Plan in this case comprises the policies of the Teesdale District Local Plan as amended by saved and expired policies September 2007.
17. Paragraph 215 of the NPPF states that following the 12 month period after the date of publication (of the NPPF), due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.
18. The saved policies considered relevant to the proposal and to which due weight can be given having regards to NPPF paragraph 215 are:
19. *Policy GD1 (General Development Criteria)* Development will be permitted where among other things it is in keeping with the character of the area and would not disturb or conflict with adjoining uses and would not unreasonably harm the amenity of occupants of adjoining sites.
20. *Policy BENV3 (Development Affecting Listed Buildings)* Development which would adversely affect the character or the setting of a Listed building will not be permitted.

21. Policy BENV4 (Development within Conservation Areas) Development within conservation areas will only be permitted provided that among other things the proposal respects the character of the area and does not generate excessive environmental problems which would be detrimental to the character and appearance of the conservation area.

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.durham.gov.uk/media/3401/Teesdale-local-plan-saved-policies/pdf/TeesdaleLocalPlanSavedPolicies.pdf>

EMERGING POLICY:

22. The emerging County Durham Plan was submitted in April 2014 and has been examined in public. In accordance with paragraph 216 of the NPPF, decision takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. At the current time, the Policies within the plan are being given no weight, very limited weight or limited weight. Policies 18, 19 and 44 are to be attributed limited weight.
23. Policy 18 (Local Amenity) Permission will not be granted for development which would have a significant adverse impact on amenity by way of issues such as noise, odour and loss of privacy.
24. Policy 19 (Air Quality, Light and Noise Pollution) Specifically in respect of noise pollution emphasises the attention that will be given to development within sensitive areas and where adverse effects are identified development will only be permitted where suitable mitigation can be achieved.
25. Policy 44 - Development will be required to conserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets and seek opportunities to enhance structures and areas of significance throughout County Durham.

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.durham.gov.uk/cdp>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

26. *Gainford Parish Council* did not offer any comments.
27. *The Highway Authority* has no objection.

INTERNAL CONSULTEE RESPONSES:

28. *Environmental Health* has reiterated comments made on the previous application. Members should note that these comments refer to a noise assessment that was prepared and submitted on behalf of the neighbor at no.15 High Green to support their objection to the previously refused application DM/14/00468/VOC. Although not

submitted again on this application it remains a relevant material planning consideration. The comments are as follows:

29. I would confirm that I have assessed the noise assessment in relation to the application and I would require the following information:

30. I agree with the recommendation that the patio area is not used during the extended hours however I would require clarification from the applicant on how this will be controlled.

31. I agree with the recommendation for a sound insulation test to be undertaken between the Laurels and 15 High Green in order to determine the level of attenuation between the properties. The target value for the airborne sound insulation is correct and this should be achieved. Clarification is required from the applicant that this testing will be undertaken and the required additional sound insulation will be installed. I would recommend that the sound test report and the scheme of insulation works proposed are submitted for the approval of the Local Planning Authority.

32. Clarification is required on the proposed ventilation for the kitchen, coffee shop and function rooms during these extended hours when the windows will remain closed to mitigate noise escape.

33. If the above information can be supplied to the satisfaction of the local planning authority and approval is granted then I would recommend that the following conditions are applied:

- A management plan to prevent the use of the patio area during the extended hours should be submitted for the approval of the Local Planning Authority.
- A sound insulation test shall be undertaken to determine the level of attenuation between the Laurels and 15 High Green
- Following the sound insulation test a scheme of sound insulation shall be implemented such that the airborne sound insulation of the party wall between the Laurels and No. 15 High Green (and any other adjoining residential properties) is at least 60 dB DnT.w.
- All windows at the Laurels to remain closed during the extended opening hours.
- A self-closer be fitted to the front entrance door at the Laurels (to prevent the door banging shut).
- A lobbied entrance is created at the Laurels (to prevent noise break out during patron access and egress).
- No live or amplified music to be played in the coffee shop

PUBLIC RESPONSES:

34. The application has been publicised by way of a site notice and neighbour notification letters. 5 Letters of objection have been received from neighbours.

35. The main points of concern and objection are on the grounds of impact on residential amenity from increased noise and odour emissions in addition to increased parking impact and setting a precedent to extend opening hours further. These are summarised in more detail below.
36. Concern is put forward in relation to noise and amenity disturbance for neighbours from late night openings and congregation of customers on the patio. It is suggested that this noise would be accentuated through single pane glass in the listed buildings. Internal sound insulation is wholly insufficient and the applicant has made no attempt to address this. It will be difficult to enforce against use of the patio at night when the seating does not have to be removed.
37. The 35 days proposed are unspecified and therefore unenforceable. The number of days is also well in excess of the 2 evening events on the village green and the 14 evening theatre performances. The village green events are also further away from the immediate neighbours
38. Pre theatre meals would finish before 7:30pm (start of the show) so there is no need to remain open afterwards.
39. Previous claims about the financial needs of the business are unsubstantiated and all evidence indicates it's a profitable business. Gains to the community would be minimised by losses to competing businesses and no full time employment will be created.
40. The change in hours and provision of pre theatre meals would change the nature of the business to that of a restaurant and the provision of dinners will be more odorous and noisy.
41. Evening opening will result in residents having to compete with the business for parking in the evenings.
42. It is suggested that the opening hours of business should not be based on other businesses in Gainford as each has its own needs and this proposal should be considered on its own merits.
43. There is concern that if this proposal is allowed then it could lead to further proposals to increase the number of days even more.

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 <http://publicaccess.durham.gov.uk/onlineapplications/search.do?action=simple&searchType=Application>

APPLICANTS STATEMENT:

44. The planning statement attached to the application gives the fundamental reasons for this submission however there are a small number of points raised in documents submitted by consultees and objectors which require to be addressed.
45. The Environmental Health officer has raised a number of issues however these appear to be based on a historic report which was itself flawed, as far as the applicant is aware the officer has not visited the premises. The main points of variance are:
46. The only wall adjoining the property at 15 high Green is over 1m thick and built of solid stone. It adjoins a "day room" used by the tenants of number 15 in the day time.

The tenants have not objected (the owners are objectors but have resided in Germany for the last three years) the living room is on the first floor.

47. At the only point at which this wall is not original, sound insulation was installed at the time of the conversion to a coffee shop in 2005. Some insulation was installed under the floor at this time (2005)
48. A lobbied entrance has been requested – this has existed since 2005.
49. A self-closing mechanism has been requested (to stop the door “banging”) this has been in place since 2005.
50. No live or amplified music is currently played.
51. The request for a sound insulation test appears to be based solely on a report submitted by the objector rather than an objective assessment. It is difficult to see what this will achieve as the additional use will only occur when there is a much greater source of potential external noise from the village functions the coffee shop is looking to serve.
52. Previous consents have restricted the ventilation to the kitchen to the use of an open window. The EHO suggests this should now be kept closed: this appears to overlook the fact that the window in question opens on to the car park of the village hall which presumably will be in use, at the times proposed for extended opening, by events connected to village functions. Additionally the car park abuts the walled garden of the nearby Howies Tea Room which has unrestricted opening.
53. It has been requested that the external tables not be used during the extended hours and that a management plan be put in place to control this restriction. The use of external tables is already curtailed to fewer hours than the currently permitted opening hours by the consent granted in 2013. At this time the committee discussed the possibility of a management plan being needed but deemed it unnecessary. The applicant has demonstrated their ability to self-regulate this restricted use within the terms of the agreed consent.
54. The coffee shop fronts on to the village green, patrons are able to access the theatre by crossing the front terrace of the coffee shop. The eastern side of the coffee shop abuts the theatre. The rear of the coffee shop opens on to the village hall car park. A side room of the western side of the coffee shop abuts number 15. The coffee shop is located only on the ground floor. The main living and sleeping accommodation of number 15 is on the first floor and above. Additional activity within the coffee shop will only take place when there is greater and more significant activity externally (village green and hall car park) and within the theatre and village hall.
55. It is clear from the consent granted in 2013 that the thrust of the NPPF is entirely in support of this application and demonstrates why the situation now is significantly different from that considered at previous planning committees and at appeal.
56. This Laurels is a positive asset to the life of the village, however it does exist in a difficult and competitive market. The applicants sincerely hope that this application, if granted, will allow them to strengthen their business while also providing

enhancement to the social life of Gainford. It is the value and desirability of the benefits brought to the community by local business that is recognised and enshrined in the current NPPF and the applicant hopes it is these dual benefits that will be recognised by the planning committee and allow them to grant this application.

PLANNING CONSIDERATIONS AND ASSESSMENT

57. 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 issue in this instance relates to the impact on the residential amenity of neighbours from the proposed variation to opening hours in respect of any increase in noise, disturbance and odour. Other considerations include the impact on the character, appearance and setting of the Conservation Area and listed buildings, and highway issues.

The impact on the residential amenity of neighbours

58. The condition in question states:

“The use hereby permitted shall not be open to customers other than between the hours of 8.30am and 18.00pm”

59. The reason for the condition was *“to protect the residential amenities of the locality and the occupiers of adjoining residential properties”*.

60. This application represents a further attempted variation of the opening hours to allow later opening in the evenings and is identical to the last application which was refused earlier this year under delegated powers for opening until 9pm on 35 days a year. No further information has been provided in the resubmission.

61. Other previously refused proposals included opening until 11pm, 8pm and 7.30pm on 50 nights a year. Refusal 6/2008/0429 for opening until 8pm was appealed and dismissed by the planning inspectorate. The appeal decision is an important material planning consideration.

62. In the appeal the Inspector concluded that the opening hours of 8.30am to 6pm imposed by condition 2 of 6/2005/0327/DM (since repeated in 6/2013/0135/DM/VP) were necessary to protect the living conditions of neighbours from noise and disturbance and should be retained as such.

63. The application which received approval from the Planning Committee for outdoor seating (6/2013/0135/DM/VP) did not involve any change to opening hours and only allowed partial use of the patio for seating (furthest away from the neighbouring property) at times when the business was already operating.

64. This application seeks to extend evening opening until 9pm on up to 35 evenings each year. The applicant's desire is to be able to compete with other food and drink establishments in the village when theatre productions and choral evenings are held at the adjacent Academy Theatre, and when the carnival and the annual bonfire night are taking place on the village green.

65. The applicant suggests the proportionate increase in opening hours would be small and would coincide with times when there will be other noise generated from the theatre and village green events.
66. This was the same argument put forward in 2009 (6/2009/0319) which sought opening until 7.30pm on 50 nights a year, but was refused because of the impact on the residential amenity of neighbours. While this current proposal is for a lesser number of nights (35), the opening hours would be later (to 9pm). The impact of this proposal on the residential amenity of neighbours is still the primary concern, as it was in the last refusal, and has again been reflected in the concerns expressed by neighbouring property owners.
67. In considering the merits of this proposal, there have been some changes to the planning policy context since some of the earlier refusals and appeal decision, but not since the most recent refusal earlier this year. It is acknowledged that the NPPF has a strong emphasis to support the needs of local business, particularly where it would promote the retention and development of local services and facilities that benefit communities and visitors in rural areas. It says that significant weight should be placed on the need to support economic growth through the planning system. The proposal therefore draws some policy support in this respect as increased opening hours linked to other events could potentially increase trade to the benefit of the business. That was recognised in the local planning authority's support for the outdoor seating proposal.
68. The NPPF does not however change long standing considerations in respect of amenity and it is one of its core principles to secure a good standard of amenity for all occupants of land and buildings. Chapter 11 recognises the need to prevent development from contributing to unacceptable levels of noise and air pollution. Paragraph 123 specifically considers noise and the need to mitigate and reduce noise impacts. In addition, Teesdale Local Plan Policy GD1 remains in force and criteria D and E require that development does not conflict with or unreasonably harm the amenity of occupants of adjoining sites. These policy criteria fully accord with NPPF paragraph 123 and therefore policy GD1 can be given significant weight.
69. The emerging County Durham Plan contains Policies 18 and 19 in respect of protecting local amenity from noise and odour. These policies also accord with the NPPF however; they can only be attributed limited weight at this time because of the current status of the emerging plan.
70. The previous appeal decision and conclusions reached on residential amenity also remain a significant material consideration, particularly as the NPPF has not changed amenity considerations and the site circumstances and context have not changed.
71. In response to concerns raised by the Council's Environmental Health Section the applicant suggests that there is already some sound insulation with no.15 and a lobby with self-closing doors. What is not known though is how effective it is, particularly in dealing with evening noise transferal, which is why further tests have been requested. However and notwithstanding this, in paragraphs 5 & 6 of the appeal decision the Inspector considered that even though existing internal sound proofing would assist with internal sound transfer to the adjoining property, the increased external noise from patrons visiting the coffee shop in the evenings up to 8pm would disturb neighbours at a time they might reasonably expect the quiet enjoyment of their dwellings. Then, in paragraph 7 he said use of the toilet and store (to the rear) up to 8pm would have an oppressive impact on use of the rear

courtyard, which would be harmful to the living conditions of neighbours facing the courtyard.

72. The same general activity and resultant noise from visiting patrons and use of the store and toilet would apply to this current proposal, but it would also be for an hour later to 9pm. Any existing or improved internal sound insulation measures would not address this. Although the number of evenings when this would occur would be limited to 35 each year, by following the Inspector's reasoning it has to be concluded that on those 35 evenings neighbours would experience a harmful level of noise disturbance, and with the additional hour, to an even greater extent than what was previously considered unacceptable in that appeal.
73. 35 evenings each year is not considered to be an insignificant number of evenings for neighbours to have to experience noise and disturbance. The proposal seeks to justify those 35 evenings as being occasions when there is already noise from other events, however the events on the village green and at the theatre are not immediately next door to the neighbouring properties who would be most affected by this proposal, particularly no.15. The noisiest events on the village green are also only on 2 nights and theatre shows start at 7.30pm. The proposed introduction of evening opening to 9pm at the application site and resultant noise impacts would exacerbate the existing situation for the immediate neighbours on the nights when other activities are taking place, bringing the disturbance even closer to home on those evenings and making the situation worse. The impact would also potentially be more prolonged over the entire period of additional opening, as opposed to the more limited and short lived arrival-related activities before the theatre shows.
74. It is also noted that the 35 evenings are unspecified in the application which has led to neighbour concerns about how to ensure those evenings do in fact coincide with other events. The applicant has suggested that a condition could require advance notification of the specific evenings, however, even if the 35 evenings did coincide with other events the impact of the proposal on the neighbours would still be unacceptable for the reasons set out above. Such a condition would also be very difficult, if not impossible for the local planning authority to effectively monitor and enforce over the number of nights proposed. The condition would not therefore meet the required tests of enforceability.
75. In relation to the previous application refused under delegated powers, the owner of no.15 commissioned a noise assessment to look specifically at the potential impact on no.15. As this application is an identical proposal the noise assessment remains a material planning consideration. The noise assessment concluded that the impact of the proposal on the occupants of no.15 would be significant, which supports the views expressed above. The assessment suggests the application should be refused, but makes a number of recommendations for mitigation should the planning authority be minded to grant permission. The applicant has not carried out any noise assessment of their own to support the application.
76. The Council's Environmental Health Section agrees with the methodology of the assessment and that the recommendations are conditioned if the application is approved. However, the recommendations include matters which are difficult to control such as use of the outdoor patio which cannot be completely prevented because patrons would always have to pass through the patio to come and go through the front door of the premises; as well as requiring further assessment of sound tests and a scheme of sound insulation.
77. There must however, be certainty that neighbouring properties would be protected from noise before granting permission and therefore it would be unreasonable to rely

on the imposition of conditions to control matters requiring further assessment of the effect of the proposal on residential amenity. The imposition of the suggested conditions would not, with sufficient certainty, protect residents of nearby dwellings from the potentially undesirable noise effects from the proposed increase in evening opening hours.

78. Furthermore, as the Inspector noted in paragraph 5 of the appeal decision, while sound proofing would help reduce noise transfer from the interior of the coffee shop into no.15 it would not address general noise from comings and goings, or use of the toilet and store at times when neighbours might reasonably expect the quiet enjoyment of their dwelling.
79. Accordingly, conditions could not overcome all the noise concerns identified and therefore the proposal conflicts with the relevant national, local and emerging policies in respect of amenity impacts. While in the recent approval of the outdoor seating area the support for a local business was a factor which carried significant weight in the planning balance of that proposal, it was not considered to be at the expense of serious harm to local amenity because it did not change the opening hours.
80. In respect of odour, the neighbours' concerns are understandable given there is uncertainty about the type of pre theatre meals that would be offered and how they would be cooked. The coffee shop does not currently carry out intensive cooking so the kitchen does not have an extract system. The Environmental Health Section recommends that the kitchen window would have to remain closed on an evening to prevent noise escape. The same would be relevant for odour. The applicant considers this to be unnecessary because the kitchen faces the village hall car park to the rear, but there are also windows of neighbouring residential properties to the rear and therefore the need for the window to remain closed is considered to be justified. The impact on residential amenity of neighbours to the rear was also an important factor which led the Inspector to dismiss the previous appeal, despite the presence of the car park.
81. The window could however be conditioned to remain closed on an evening and the absence of an extract system, which would need separate planning and listed building consent, would prevent intensive cooking from taking place. How the applicant would deal with cooking restrictions in the type of meals they offer is a matter they would have to resolve themselves, possibly through additional permissions. Accordingly, there are not sufficient grounds to refuse the application on odour impact.

Other Matters

82. The property is a listed building and lies within the Gainford Conservation Area, however, no internal or external alterations are proposed, and while concerns have been raised about the impact of intensification of use on the residential amenity of neighbours, having regards to the provisions of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is considered that this intensification of use would not have any material impact on the special significance or character and appearance of the listed building or Conservation Area. The proposal does not therefore conflict with the relevant local, emerging and national planning policies in this respect.
83. Increased traffic and parking impacts were also concerns raised in the objections, however it is considered that over a period of 35 evenings and in the context of theatre and other village events, the contribution of the application proposal to any such impacts would not represent a severe cumulative impact in highway safety

terms to justify refusal on highways grounds, and importantly, there is no objection from the Highway Authority on these grounds. The proposal does not therefore conflict with the relevant local, emerging and national planning policies in this respect.

CONCLUSION

84. This application is identical to the application refused in January this year. It is considered that permitting the additional opening hours would result in serious harm to the residential amenity of neighbours in terms of noise and disturbance on the number of evenings proposed. It is acknowledged that the NPPF provides a strong emphasis to support the needs of local business, particularly where it would promote the retention and development of local services and facilities that benefit communities and visitors in rural areas. However it is also a core principle of the NPPF to secure a good standard of amenity for all occupants of land and buildings and to ensure development does not lead to unacceptable noise impacts. The support for business needs should not therefore be at the expense of the amenity of neighbours where the potential for serious harm has been identified. It is not therefore a factor to override the serious harm to residential amenity identified in this case. Further conditions could not overcome all the noise concerns identified.

85. The proposal therefore fails to accord with Teesdale District Local Plan Saved Policy GD1 (D, E) and the provisions of NPPF paragraph 123.

RECOMMENDATION

That the application be **REFUSED** for the following reason;

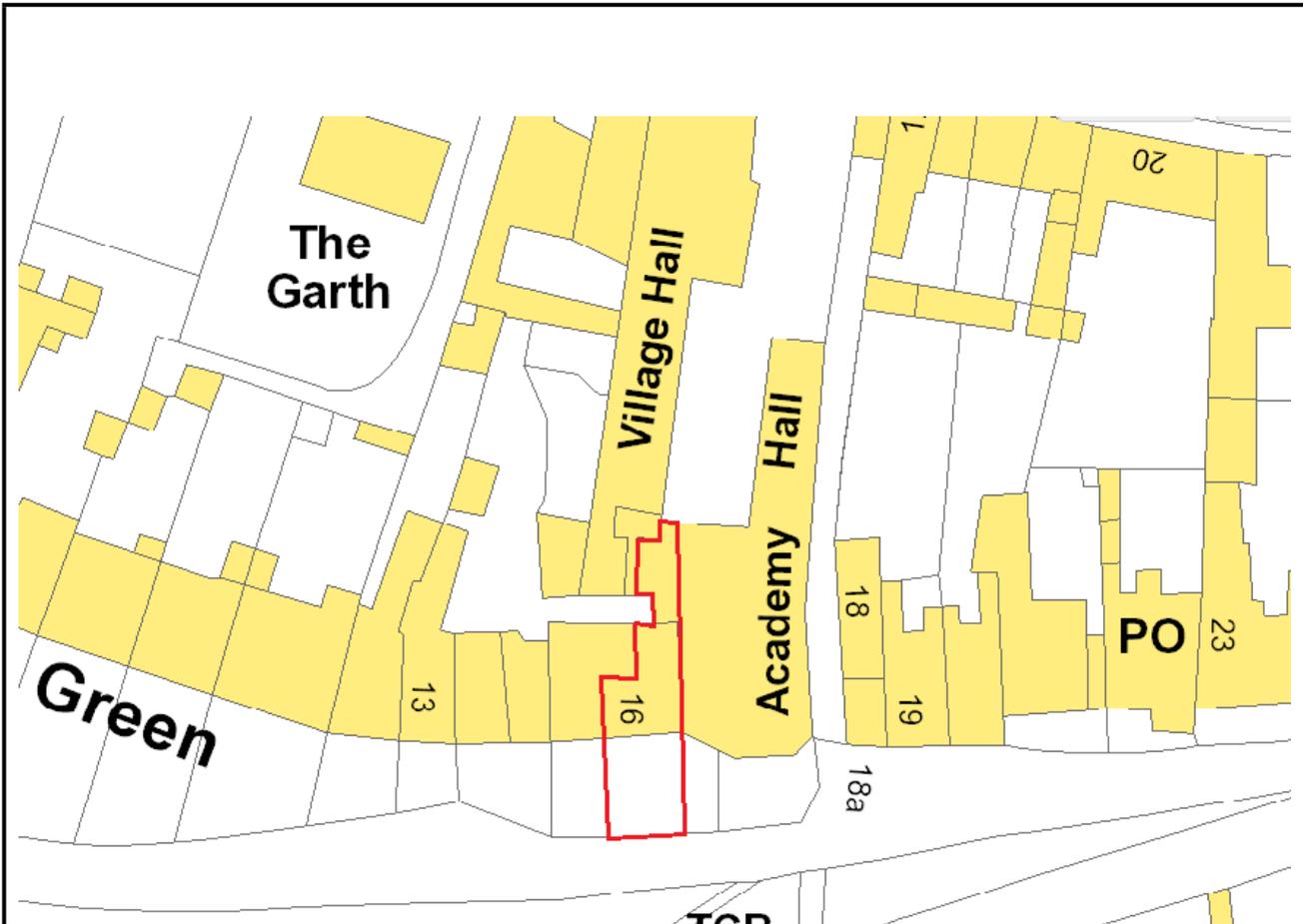
The current restriction of opening hours of 8.30am to 18.00pm is considered to be necessary to protect the residential amenity of neighbours from noise and disturbance and therefore the proposed extension of opening hours to 21.00pm over 35 evenings would introduce an unreasonable level of additional noise and disturbance at a time when occupiers of neighbouring properties might reasonably expect the quiet enjoyment of their dwellings. This would be harmful to the residential amenity of those neighbours, contrary to Teesdale District Local Plan Saved Policy GD1 (D, E) and the provisions of NPPF paragraph 123.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies, material considerations and representations received, however, in the balance of all considerations, the issues of concern could not result in a positive outcome being achieved.

BACKGROUND PAPERS

Submitted application form, location plan supporting documents provided by the applicant
The National Planning Policy Framework (2012)
Planning Practice Guidance (PPG)
Teesdale District Local Plan Saved Policies
The emerging County Durham Plan
Noise impact assessment submitted in relation to application DM/14/00468/VOC
All consultation responses and representations received



Planning Services

Variation of condition 2 of planning permission 6/2013/0135/DM/VP to extend opening hours to between 8.30am and 9pm on 35 days per year

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