

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/00026/FPA
FULL APPLICATION DESCRIPTION:	Change of use from B2 catering business to a restaurant/cafe A3
NAME OF APPLICANT:	Mr T Hewittson
ADDRESS:	107A High Street, Carville, Durham, DH1 1BQ
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Laura Eden laura.eden@durham.gov.uk 03000 263980

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a two storey detached property with a large garage and covered loading/deliveries areas to the south west facing elevation. The property already benefits from existing external extraction fans and flues given the existing use of the property.
2. The building fronts onto High Street, a busy mixed use local high street type location. Although the surrounding area is predominantly residential there are a number of commercial properties within the street including numerous shops (A1), a bank (A2), a hot food takeaway (A5) and a Church. There is dedicated on street parking alongside the south bound road. Vehicular access to the property can be taken either directly from Front Street, or to the south of the property there is an adopted side street from where the other garage can be accessed.
3. The property is within mixed usage being residential to first floor and commercial to ground floor. The business element comprises of 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.

The Proposal

4. The application seeks full planning permission for the change of use of part of the building from the catering company (B2) to a restaurant and café (A3) development. The existing offices to the northern part of the building would remain unchanged. It is proposed that the business would be open between the hours of 7am until 3pm Monday to Friday, 7am until 12.30pm on a Saturday and closed on a Sunday. No external changes are proposed.
5. The scheme is being reported to committee at the request of the local divisional member Cllr Conway without prejudice for reasons relating to highway and residential amenity. The Parish Council also requested that the application be considered at Committee due to concerns regarding parking and highway safety.

PLANNING HISTORY

6. 4/12/00249/FPA Erection of fire escape to rear of property Approved 25th May 2012
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.
7. Most recently approval has been granted in 2013 for a timber storage shed and flue associated with extraction system and the retention of solar panels, fridge, freezer, storage container and hard standing to rear. There was also a subsequent discharge of condition application.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

8. 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
9. 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'
10. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below
11. The following elements of the NPPF are considered relevant to this proposal
12. Part 1 – 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 challenges of global competition and of a low carbon future
13. Part 4 – Promoting Sustainable Transport. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives

14. 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

LOCAL PLAN POLICY

City of Durham Local Plan

15. 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.
16. Policy S7 (Individual Shops) allows individual shops within settlement boundaries provided existing local centres are not undermined and where the character of an area or road safety would be adversely affected.
17. Policy S10 (Food and Drink) allow development for food and drink establishments within settlement boundaries provided there is adequate parking and there are no adverse effects on the amenities of nearby occupants or the character of an area.
18. 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.
19. Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.
20. Policy T1 (General Transport Policy) Requires all developments to protect highway safety and/or have significant affect on the amenity of occupiers of neighbouring properties

RELEVANT EMERGING POLICY

The County Durham Plan

21. Paragraph 216 of the NPPF says that 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. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP. In the light of this, policies of the CDP can no longer carry any weight.

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

INTERNAL CONSULTEE RESPONSES:

22. Environmental Health – No objection as overall the scale and type of food produced should reduce in scale, however as the applicant plans to use the wall mounted canopy extractor rather than the high level extractor unit a condition is required to be imposed to ensure the arrangements are satisfactory.
23. Highways - No objections given there is on street parking which should be able to accommodate the parking needs of the proposed use. Due to neighbour objections a number of visits were undertaken and it was noted that there was available car parking spaces on each occasion.

PUBLIC RESPONSES:

24. The application has been publicised by way of a site notice in addition to individual notification letters to neighbouring residents. Ten letters of objection have been received from local residents and the Parish Council on the grounds of;
 - Impact on parking
 - The use will make the road more hazardous due to extra traffic, parked cars and people ignoring road markings
 - Concerns that the business would not adhere to their hours of operation
 - Concerns the business may be used as a takeaway in the future
 - Impact on amenity due to the proposed hours of operation, noise and smells
 - Property devaluation
 - Damage to cars
 - Impact on existing businesses

APPLICANTS STATEMENT:

25. Having operated from the premises delivering outside catering for over thirty years age has an affect on everyone, therefore the proposal was to open the premises as a cafe and gradually wind down the outside catering concentrating on the cafe as a benefit for the local area.
26. I feel the High St. is 'CRYING OUT' for this type of establishment as there is no similar business situated nearby. Locals would be welcomed to enjoy a tea or coffee and a friendly chat. Quality home produced food would be produced at reasonable prices. With many people now on their own through bereavement Etc. I feel these premises could become the hub of the community. My proposal was to trade from 7am - 3pm weekdays possibly 7am - 12noon Saturday like all new ventures I do not have a crystal ball but upon consulting local people they are in favour of the proposal. Obviously all law requirements regarding noise odour levels would be adhered to.
27. Hopefully the business would be employing local people.

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

28. 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.
29. The main considerations in regard to this application are the principle of the development, the impact on residential amenity and highway safety.

Principle of Development

30. Policies H13, S7 and S10 of the City of Durham Local Plan support in principle the change of use of a premise including new shops and café developments provided they do not adversely affect the viability of any other local centre or village and it is in scale and character with its surroundings. Turning to the NPPF, the emphasis is on sustainability and support for economic growth.
31. The application site is located within the established built up limits of Carville. Although the site lies outside a designated local centre and the surrounding area is primarily residential in nature it is close to a number of other commercial businesses. The application site is currently in commercial use as a catering company and all along High Street there are various commercial premises operating adjacent to residential properties. It is considered that the scale of the premise is appropriate in terms of the surrounding area and it is not considered that it would affect the vitality and viability of the surrounding area.
32. On this basis it is considered that a proposal of this nature would be a sustainable location for a new business development and would be acceptable in principle especially in light of the current B2 (light industry) use operating from the premises.

Residential Amenity

33. Policies H13, S7 and S10 of the Local Plan require that proposals that relate to the change of use of a premise including new shops and café developments are required not to have a significant adverse effect on the amenities of residents or the character and amenity of the surrounding area. Section 7 of the NPPF seeks to ensure that development provides a good standard of amenity for all existing and future occupants of land and buildings.
34. Although the surrounding area is predominantly residential in nature there are a number of commercial premises within the street including numerous shops (A1), a bank (A2), a hot food takeaway (A5) and a Church. Properties typically face out onto Front Street, a busy unclassified road. Therefore although the area is not designated as a local centre, residents would be used to some noise and disturbance due to the existing uses within the street and general traffic noise caused by the busy road.
35. The application site is already in commercial use being used for the preparation and production of food for outside catering, coach companies and retail outlets which is considered to be a B2 use (general industry). There are no specified hours of operation for this business however the most recent approval did limit the use of extraction equipment to between 7am and 5pm on any day of the week. The proposed use is for a tearoom/café to be open between the hours of hours of 7am until 3pm Monday to Friday, 7am until 12.30pm on a Saturday and closed on a Sunday.

Compared to the current situation, which includes the production of hog roasts, it is likely that the scale and type of food produced would be reduced in terms of quantity and odour. Details have been submitted in support of the application regarding the extraction system which is proposed to be from the existing kitchen extractor rather than the high level unit. Normally environmental health officers would expect higher level discharge however consider that the matter could be controlled through the imposition of a condition relating to the agreement of the fume extraction system.

36. Neighbours have expressed concerns that the change of use would adversely impact on their amenity due to the proposed hours of operation and the potential for noise and smells. That being said they live adjacent to a historic unrestricted B2 use which has been the subject of complaints in the past from neighbours. Indeed, when the last planning application was considered for the site, requests were made for consideration to be given to relocating the business because of its local impacts. Such uses would generally be regarded as non-conforming and are typically located on industrial estates rather than residential areas. As previously identified the principle of a retail/café premise is considered to be acceptable and would most likely be less intensive than the current use operating from the site especially in terms of smells and odours. Officers would consider that such a use is more compatible with the surrounding area. Comings and goings of customers could potentially be more frequent however would not be uncharacteristic of an area that benefits from a number of shops including convenience stores, hairdressers and a bakers. It is proposed to condition the hours of operation of the proposed business to 7am until 5pm Monday to Friday and 7am until 1pm on Saturdays. It is acknowledged that this would be for longer than is proposed by the applicant however any conditions imposed need to be reasonable. Given the existing uses in the street and that the current business is not restricted it is considered that overall this would result in an improvement for local residents.
37. Overall it is considered that the change of use to a restaurant and café would not result in a significant adverse impact on amenity over and above the current situation. If anything it is considered likely to lead to a reduction in the quantity and potential odour of the food produced as well as reduced hours of operation.

Highways

38. The site is located on High Street, a busy, unclassified road that runs through Carville. Most properties do not benefit from off road parking and rely on the dedicated car parking areas marked on the south bound carriage and they also use the opposite side of the road. A number of objections have been received from local residents and the Parish Council that include perceived highways related issues if the development was approved. These include additional demand for parking, the road will become more hazardous due to extra traffic, parked cars and people ignoring road markings and there could be damage to cars.
39. Colleagues in the highway section are satisfied that any additional parking demand could be accommodated within the existing parking arrangement. They were aware of the concerns raised by residents and have visited the site on a number of occasions and each time noted that there was parking availability. Indeed planning officers have also visited the site on several occasions and have not noted any parking problems. Issues such as cars parked illegally or damage to cars was not observed, and could not be taken into account in assessing the planning application.

40. High Street is a busy road which serves both residential properties as well as commercial businesses. It is not considered that the introduction of a restaurant/café business in lieu of a catering company would generate traffic significantly over and above the current situation that would justify refusal of the planning application. Furthermore, colleagues in the highways department have raised no objection to the proposal. On this basis it is considered that the proposal would accord with policies S7, S10 and T1 of the City of Durham Local Plan.

Neighbour Objections

41. The majority of the concerns raised by the local residents and the Parish Council have been addressed elsewhere in this report. Matters relating to concerns that the business would not adhere to their hours of operation, that the business may be used as a takeaway in the future and that there could be an impact to existing businesses are perceived problems that cannot be taken into account. Any future application to change the use of the premises would be assessed on its merits. Property devaluation is not a material planning consideration.

CONCLUSION

42. In conclusion, it is not considered that the introduction of a restaurant/café premises to replace an existing catering company would have any significant adverse impacts over and above the existing situation in terms of impact to residential amenity and highways safety. It is considered that hours of operation and extraction can be controlled by means of condition. As a result, it is considered that the proposal is in accordance with the intentions of National Planning Policy Framework and saved Policies of the current Local Plan.

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 following approved documents. Extraction details, site location plan, proposed plans and design and access and parking statement all received 05/01/2016, application form received 07/01/2016.
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved Policies H13, S7, S10, Q1, Q2 and T1 of the City of Durham Local Plan
3. The use of the premises for a mixed use comprising of retail and cafe shall be restricted to the hours of 7am until 5pm Monday to Friday, 7am until 1pm on Saturdays and no permitted opening on a Sunday.
Reason: In the interests of preserving the amenity of residents in accordance with Policies H13 and S10 of the City of Durham Local Plan.

4. Prior to the commencement of the development details of the fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interests of preserving the amenity of residents in accordance with Policies H13 and S10 of the City of Durham Local Plan.

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 Forms and Drawings
- National Planning Policy Framework
- City of Durham Local Plan 2004
- Consultation Responses



Planning Services

**Change of use from B2 to a mixed class use retail A1 and restaurant/cafe A3.
107A High Street, Carville, Durham, DH1 1BQ**

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Comments

Date. 8 March 2016

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