

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/17/04076/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Change of use of a former retail shop to a lounge bar/restaurant</b>
<b>NAME OF APPLICANT:</b>	<b>Mr Justinas Barysas</b>
<b>ADDRESS:</b>	<b>3 Britannia Shops, Victoria Road, Consett</b>
<b>ELECTORAL DIVISION:</b>	<b>Consett North</b>
<b>CASE OFFICER:</b>	<b>Louisa Ollivere</b> <b>Planning Officer</b> <b>Telephone:03000 264 878</b> <a href="mailto:louisa.ollivere@durham.gov.uk">louisa.ollivere@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The site subject of this application is a former retail unit on a commercial street (Victoria Road) in the centre of Consett. The unit lies between a café and a restaurant and is opposite St Patrick's R.C Church. There is on street parking to the front of the property.

#### The Proposal

2. This application seeks planning permission for the change of use of the unit to create a lounge bar and additional seating area for the adjacent neighbouring restaurant. No changes are proposed to the front façade and no additional extraction equipment is to be installed. The proposal would create full time employment for one person. The opening hours are 12 noon to 10:00pm seven days per week.
3. The application is reported to Committee as a Member has an interest in the property being the owner and an objection has been received.

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### PLANNING HISTORY

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4. None relevant.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

#### NATIONAL PLANNING POLICY FRAMEWORK

5. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision taking, the most relevant of these in this instance being:
  
6. *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. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
  
7. *NPPF Part 11 – Conserving and enhancing the natural environment* -The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
  
8. 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.

<http://planningguidance.planningportal.gov.uk/>

### **NATIONAL PLANNING PRACTICE GUIDANCE:**

9. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
  
10. *Design* -The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that

design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

#### **LOCAL PLAN POLICY:**

11. The following section details the saved policies in the Derwentside District Local Plan thought most relevant to the consideration of this application:
12. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet. – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
13. *Policy CO12 – Hot food take-away shops and cafes* – permission will only be granted for uses in the following locations: Within town centres if: a) premises are not located close to concentrations of residential property, and b) are not located close to parking restrictions. Within mixed use areas or local shopping centres if: a) there would be no harmful effect on living conditions of nearby residents from noise. Disturbance, smells and odours, and b) premises are not located adjacent to parking restrictions. Moreover, such uses can only be considered appropriate if: a) satisfactory opening hours are proposed, b) satisfactory details of fume extraction including its siting have been agreed, and c) an approved scheme for the collection / disposal of litter can be effectively implemented, and d) satisfactory trade refuse facilities are available. Hot food uses are considered unacceptable located amidst dwellings and isolated from other non-residential uses
14. *Policy EN26 – Control of Development Causing Pollution* – permission will only be granted for development which is not likely to have an adverse impact on the environment having regard to likely levels of air, noise, soil or water pollution.
15. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

*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/Pages/Service.aspx?ServiceId=494>*

#### **EMERGING POLICY:**

16. 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.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY CONSULTEE RESPONSES:**

17. Highways Officer: No objection.

### **INTERNAL CONSULTEE RESPONSES:**

18. Environmental Health Officer: Advises that noise and odour should be considered as noise and odour sensitive properties are within distance that without proper controls in place to control noise and odour could have a negative impact on the properties. The Officer requests further details in relation to the fume extraction system, odour abatement measures and noise levels of equipment.

#### Public Responses:

19. Neighbouring occupiers have been consulted and this has resulted in one letter of objection from a neighbouring cafe who has objected on the grounds of competition and number of such uses in the Town Centre.

#### Applicants Statement:

20. The application should be supported as it is supplementing an existing restaurant business which is owned by the applicant and is also creating employment for the area.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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21. 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 the development, the impact on amenity and the impact upon highway safety.

#### Principle of the development

22. The premises are located within the Consett town centre where, by virtue of Policy CO12 of the Derwentside Local Plan Policy, hot food establishments are normally permitted subject to there being no adverse impacts upon amenity or car parking. These issues are addressed below.

23. One of the overarching principles of the NPPF is to support sustainable economic development to deliver business that the country needs. The proposed expansion of the business would contribute positively to the daytime and evening economy contributing to the vitality and viability of the town centre and will bring one additional full time job to the area. Whilst concerns have been raised in relation to a proliferation of such uses in the Town Centre the number of restaurants and cafes in Consett decreased last year and only make up 4.5% of the units in the Town Centre which is not a high percentage. It is considered that sufficient retail units remain to

ensure the primary function of the Town Centre is for shopping. The site is sustainably located within Consett Town Centre with good access to public transport being within easy walking distance to Consett Bus Station. Bearing the above in mind the proposal is considered to be acceptable in principle.

#### Impacts on amenity

24. Derwentside District Local Plan Policies GDP1, CO12 and EN26 seek to ensure that neighbouring residents' amenity is protected from the harmful effects of development such as noise, disturbance and odour. Section 11 of the NPPF seeks to protect quality of life of neighbouring residents from impacts such as noise.
25. The restaurant/bar use would not be in close proximity to residential properties, the nearest group of properties being 95m to the north west. At this distance and bearing in mind that the use would rely only on the use of the existing adjoining property's fume extraction equipment, and with hours restricted to the permitted opening hours of the associated restaurant unit, it is not considered that the use would result in a statutory nuisance nor would it present noise or odour issues in terms of residential amenity.

#### Parking and Highway Safety

26. Derwentside Local Plan Policy TR2 requires all development to incorporate adequate parking and access. The NPPF aims to direct development to sustainable locations. On street parking is permitted to the front of the premises albeit being restricted in term of hours and length of stay. The Highway Officer is satisfied that no on-site parking is required given the Town Centre location with parking and public transport options in very close proximity.

#### Other Issues

27. Whilst a neighbouring business owner has raised concerns in regard to competition, Members will be aware that this is not a material planning consideration.

#### Conclusion

28. There would be no significant impacts in terms of noise, disturbance and odour or highways safety and the proposal represents benefits in terms of the local economy and the vitality and viability of the Town Centre. The proposal is therefore acceptable and in accordance with the NPPF and Derwentside Local Plan Policies GDP1, CO12, EN26 and TR2.

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## **RECOMMENDATION**

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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.

*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 only in accordance with the following approved plans:

Plan Ref:	Date Submitted:
Site Location Plan	15/12/2017
Licensing Plan	15/12/2017

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan.*

3. The premises shall not be open to customers outside of the hours of 10.00 to 23:00 Monday to Friday and Sundays and Bank Holidays and 10:00 to 00:30 Saturday.

*Reason: In the interests of the amenity of the area in accordance with policy GDP1 of the Derwentside Local Plan.*

4. Prior to their installation details of any fume extraction equipment to be installed which must accord with current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed and shall be operated at all times when cooking is being carried out on the premises.

*Reason: In the interests of the amenity of the area in accordance with Policy GDP1 of the Derwentside Local Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.

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## **BACKGROUND PAPERS**

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Derwentside District Local Plan (saved policies 2007)  
National Planning Policy Framework, March 2012  
National Planning Practice Guidance



**Planning Services**

3 Britannia Shops, Victoria Road, Consett

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**Comments**

**Date** 1<sup>st</sup> March 2018

**Scale** 1:1250