
Report of the Head of Development Management**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 23-Feb-2017****Subject: Planning Application 2016/93910 Change of use of shop to snooker and games room Dual House, Wellington Street, Batley, WF17 5TH****APPLICANT**

Mr Raza Ayoub

DATE VALID

24-Nov-2016

TARGET DATE

19-Jan-2017

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Batley East

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION: REFUSE

1. It has not been demonstrated that the proposed change of use to a snooker and games room (D2 use), particularly due to the lack of any continuous management of the premises and its external area, would not result in an increase in the fear of crime and anti-social behaviour for the local community. The increased fear of crime and anti-social behaviour would outweigh the benefits of the re-use of the vacant building and fail to create a safe and accessible environment, significantly undermining the quality of life of the local community, contrary to the aims of Chapter 8 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee for determination due to the level of representations received in objection to the development. A petition of 43 signatures and 38 letters of objection were documented. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The proposed change of use of the vacant building to D2 use (Leisure and Assembly) as a snooker and games room is considered to not impact unduly on the residential and visual amenity of neighbouring occupants and, in this respect would accord with Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan and the core principle of the National Planning Policy Framework.
- 1.3 Furthermore, the current level of off-street parking, although it is under the recommended level for the proposed use, is considered acceptable when taking into account the associated traffic movements of the established use and level of on-street parking. The development is therefore not considered to materially add to highway safety implications, and would accord with the aims of policy T10 of the Kirklees Unitary Development Plan too.
- 1.4 However, although the NPPF is committed to securing sustainable economic growth by encouraging business and job creation, it also promotes safe and accessible environments where crime and disorder, and the fear of crime, do

not undermine quality of life or community cohesion. In the circumstances of this planning application, officers attach greater weight to these latter objectives, which the development is considered to clearly conflict with.

- 1.5 In this instance, it is considered, by officers, that the resultant impact of the change of use in regards to the increased fear of crime for the local community would outweigh the benefits of the re-use of the vacant building in contract to guidance within Chapter 8 of the National Planning Policy Framework.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site consists of a two storey detached building faced in natural stone with tiled mono pitched roof. The principal elevation has three entrances directly from the parking area to the front with shutter box and perforated roller shutter over. To the West of the principal elevation is a delivery hatch at first floor level. The building has a floor area of 180 square metres over two floors with a total of 360 square metres.
- 2.2 To the East, attached perpendicularly, is a two storey building which is currently vacant. The users of this building do not have right of access to the building from or use of the car park.
- 2.3 Directly to the front of the building is a tarmac parking area with access and exist points directly from Wellington Street with 5 off-street parking spaces. The site is enclosed by a stone wall with iron railing detail.
- 2.4 Directly to the South and West of the site are residential properties. To the North is a sheltered housing scheme with are 2 no. retail units.
- 2.5 Wellington Street is a category C adopted highway which is subdivided by a grass verge giving access to the application site, 113- 121 Wellington Street via Purlwell Lane.

3.0 PROPOSAL:

- 3.1 Permission is sought for the change of use of the building to a snooker and games room. The building is currently vacant and has a floor area of approximately 180 square metres over two floors. A total floor area of 360 square metres.
- 3.2 The ground floor will accommodate a snooker room, reception area, office space and WC facilities. The first floor will accommodate 5 no. individual pool tables. The proposed use is said to generate approximately 10 users per hour. The service users will pay at the reception desk, use one of the pool or snooker tables and socialise with friends. It is proposed that soft drinks and snacks will be available to buy.
- 3.3 The parking and access will remain as existing with the provision for 5 off-street parking spaces.

3.4 There are no external alterations proposed to the building.

4.0 RELEVANT PLANNING HISTORY:

4.1 The application before sub-committee seeks full planning permission for the change of use of a vacant two storey building with current use of B1 business/office to a D2 use class as a snooker and games room (Leisure and Assembly).

4.2 Records show that the application site has been subject to the following planning history:

- 2002/90188 – Change of use from workshops to combined workshop/office and showroom – Conditional full permission
- 2003/94602 – Change of use of workshop to retail outlet to supply central heating – Refused
- 2004/90700 – Change of use of workshop to retail/trade to supply central heating and bathroom – Refused

4.3 An enforcement investigation was opened on 23rd November 2016 with reference COMP/16/0294 following an allegation that the building was undergoing alterations to change the use to a shisha and snooker centre without the necessary planning permission. The application under consideration was registered on 24th November. As such formal enforcement action was not commenced, however, an action was added to the case file to monitor whilst awaiting the outcome of this planning application.

4.4 A further enforcement investigation case was opened on 13th December 2016 with reference COMP/16/0310 following concern as to the amount of waste accumulated to the front of the site on the car park which was considered by the complainant to have created an eyesore within the street scene. Throughout bad weather the waste was reported to spread out of the site into neighbouring areas. Contact was made with the applicant on 3rd January 2017 requesting that the site be cleared. Confirmation was received that the site had been cleared on 17th January 2017 allowing the enforcement case file to be closed as breach amicably resolved.

5.0 HISTORY OF NEGOTIATIONS:

5.1 The case officer has not requested amendments to the scheme given the nature of the application for a change of use as there are no associated external alterations proposed.

5.2 Further information was requested and submitted by the applicant of a more detailed description and logistics of the proposed use, proposed floor plans and the estimated number of service users.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007).
- 6.2 The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the Kirklees UDP proposals map.

6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- **D2** – Unallocated Land
- **BE1** – Design Principles
- **BE2** – Quality of Design
- **T10** – Highway Safety
- **T19** – Parking Standards
- **EP4** – Noise sensitive development

6.4 Supplementary Planning Guidance / Documents:

There are no relevant supplementary planning guidance/documents

6.5 National Planning Guidance:

- **Paragraph 17** – Core Planning Principles
- **Chapter 1** – Building a strong, competitive economy
- **Chapter 8** – Promoting healthy communities
- **Chapter 11** – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 As a result of the publicity 38 representations and a signed petition containing 43 signatures have been received in objection to the proposed change of use. The comments are summarised as follows:
- The intensification of the current level of traffic by other businesses within the area

- Disturbance from associated nuisance and noise particularly during the evening and into the night
- An increase in the number of vehicles parked on Wellington Street which will be of detriment to highway safety
- The site has inadequate parking facilities
- The use as a snooker/games room will attract crime and anti-social behaviour.
- Loss of privacy for local residents

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

- **KC Highways Development Management** – No Objection

8.2 Non-statutory:

- **KC Environmental Health** – No Objection. However, in order to protect the residential amenity of neighbouring properties the following condition is proposed:

“The use hereby permitted shall not be open to customers outside the hours of 09:00 to 20:00 Monday to Saturday and 10:00 to 19:00 Sundays”

- **Police Architectural Liaison Officer** – Object to the application because it is likely to cause an increase in serious anti-social behaviour, nuisance, and criminality in the vicinity of the premises, as well as a rise in the fear of crime and tensions within the local community.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 The application seeks full permission for the change of use of a vacant two storey building with a current use as B1 Business/workshop to D2 use (Assembly and Leisure) as a snooker and games room. The site is unallocated within the Kirklees Unitary Development Plan (UDP), therefore policy D2 applies. Policy D2 states that “planning permission for the development of land and buildings without notation on the UDP proposals map, and not subject to specific policies in the plan, will be granted provided that proposals do not prejudice the following:

- The implementation of proposals in the plan;
 - The avoidance of over-development;
 - The conservation of energy;
 - Highway Safety;
 - Residential Amenity;
 - Visual Amenity;
 - The character of the surroundings;
 - Wildlife interests; and
 - The efficient operation of existing and planned infrastructure.
- 10.2 Further policies of the Kirklees UDP are also applicable in regards to the design of the development. Policies BE1 and BE2 set out guidance in relation to the design, materials and scale to ensure that a sense of local identity is retained and promotes a healthy environment.
- 10.3 The core principle of the National Planning Policy Framework (paragraph 17) states that planning should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”. Further matters for consideration are referenced in Chapter 1 of the NPPF which states that the planning system should “do everything that it can to support sustainable growth” with Chapter 8 of the NPPF adding that the planning system can “play an important role in facilitating social interaction and creating healthy, inclusive communities”.
- 10.4 A full assessment of the above will be considered below.

Urban Design issues

- 10.5 There are no external alterations proposed to the building as part of the proposal for a change of use to snooker and games room. Although, it is envisaged that in time the current signage on the principal elevation would be removed following the closure of the former business use.
- 10.6 There are currently no planning applications submitted for proposed signage. However, depending on the design and scale of the signage it could benefit from permitted development rights under the Town and Country Planning (Control of Advertisements) Regulations 2007.

Residential Amenity

- 10.7 The application seeks permission for the change of use of a vacant two storey building with a current use as B1 Business/workshop to D2 use (Assembly and Leisure) as a snooker and games room. The building has an existing car park to the front with access from Wellington Street.

Noise

- 10.8 The application site is set within an area which is predominantly residential. The nearest residential property is 113 Wellington Street to the North West which has a separation distance of 4.5m. Directly to the South of the application site is 15 Hamza Street which is 23.7m from the Southern elevation which also forms the boundary to the dwellings associated amenity space.

- 10.9 The building is within close proximity to residential properties and as such it is the concern of local residents that they would be unduly impacted by an increased level of noise disturbance associated with the use and service users.
- 10.10 It is considered by officers that although the use is likely to create an increased footfall, this can be minimised and controlled by the implementation of a condition restricting the hours of operation to 09:00 to 20:00 Monday to Saturday and 10:00 to 19:00 on Sundays, as recommended by KC Environmental Health. This restriction would limit the level of disturbance to ensure that the residential amenity is not unduly impacted.
- 10.11 Given the implementation of the attached condition, it is considered that any harm arising from the change of use can be mitigated against and the proposed change of use should not therefore cause any significant harm to the residential amenities of neighbouring residential properties. Subject to the condition relating to hours of use, the proposed development would comply with policies D2, BE1, and EP4 of the Kirklees Unitary Development Plan as well as the aims of chapter 11 of the NPPF in this respect.

Over Looking

- 10.12 There are currently no existing windows or access doors within the Southern or Western elevations with no additional windows proposed. The building holds all windows and access doors within the Northern elevation.
- 10.13 As the level of overlooking will not be altered by the addition of windows within the building the level of overlooking will remain as original with no considered impact to the residential properties to the South or West. The development would therefore comply with policy D2 in terms of residential amenity.

Highway issues

- 10.14 Policy T10 sets out guidance for new development to ensure that there is a limited impact upon highway safety. Policy T19 sets parking standards for new developments. There have been a high number of representations received concerning the associated increase level of vehicle movements and impact of parking on Wellington Street.
- 10.15 KC Highways DM were consulted on the application. It was assessed that the current use as B1 Business/workshop, if brought back into use, would generate an estimated 30 two way vehicle movements per day which would be inclusive of HGV deliveries associated with the use.
- 10.16 Supporting information states that the proposed use would have an average of approximately 10 users per hour (numbers established as per a site within the same use that the planning agent recently worked on).

- 10.17 Policy T19 of the UDP states that for use class D2 Leisure and Assembly would require 1 parking space per 3 members of staff and 1 visitor parking space per 2 patrons. Based upon the applicants anticipated use of the snooker and games room there would be a requirement of 7 spaces in order to meet the recommended parking standards.
- 10.18 Whilst it is acknowledged that the current level of parking spaces (5 off-street) does not meet the required 7 spaces, given the level of vehicles movement associated with the established use and the available on-street parking spaces, the development is not considered to materially add to any undue highway safety implications and would be in compliance with policies T10 and T19 of the Kirklees UDP.

Crime and anti-social behaviour

- 10.19 Chapter 8 of the National Planning Policy Framework sets out the important role that the planning system plays in facilitating social interaction and creating healthy and inclusive communities. Chapter 69 states that planning decisions should aim to achieve places which promote 'safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion'.
- 10.20 There has been a high level of representation received with concern for the potential associated anti-social behaviour as a result of the change of use to snooker and games room.
- 10.21 The Police Architectural Liaison Officer (PALO) was consulted on the application for the proposed D2 (Leisure and Assembly) Snooker and games room. As part of the assessment, the Neighbourhood Police Inspector for the Batley area was also consulted.
- 10.22 It is the considered view of West Yorkshire Police that the approval of the proposed D2 (Leisure and Assembly) Snooker and games room would be likely to cause an increase in the serious anti-social behaviour, nuisance and criminality in the vicinity of the premises, as well as a rise in the fear of crime and tensions within the local community.
- 10.23 The assessment is based upon the opinion that an approval would create a 'honeypot' (a place where people have an excuse to congregate and linger). Crime and anti-social behaviour are more likely to occur at a specific location if potential offenders have a 'legitimate' reason to meet there.
- 10.24 There are no details submitted with the application detailing how both the premises and external area would be managed which further adds to the concerns.
- 10.25 In the absence of continuous management, it is considered by officers that the proposed use as a snooker and games room would bring the likelihood of criminal or anti-social behaviour to the immediate vicinity which would in turn raise the level of crime amongst nearby residents.

- 10.26 To summarise, it is considered that the proposed use as D2 (Leisure and Assembly) Snooker and games room would be contrary to the aims of chapter 8 of the National Planning Policy Framework due to the increased fear of crime for local residents which would result in a decrease in the quality of life and social cohesion of the local community.

Representations

- 10.27 The intensification of the current level of traffic by other businesses within the area.

Response: The current level of parking within the site has been assessed and although the level is under the desired amount, given the level of vehicle movements associated with the established use and the level of on-street parking the development is considered to be acceptable. The level of parking will be further controlled by the implementation of restricted hours of operation.

- 10.28 The perceived level of disturbance from the associated nuisance and noise particularly during the evening and into the night.

Response: The hours of operation of the snooker and games room will be restricted by condition to ensure that the impact on residential amenity of residential properties is limited.

- 10.29 Generate an increase number of vehicles parked on Wellington Street which will be of detriment to highway safety.

Response: The current level of parking within the site has been assessed and although the level is under the desired amount, given the level of vehicle movements associated with the established use and the level of on-street parking the development is considered to be acceptable. The level of parking will be further controlled by the implementation of restricted hours of operation.

- 10.30 The site has inadequate parking facilities.

Response: The current level of parking within the site has been assessed and although the level is under the desired amount, given the level of vehicle movements associated with the established use and the level of on-street parking the development is considered to be acceptable. The level of parking will be further controlled by the implementation of restricted hours of operation.

- 10.31 The use of a snooker/games room will attract crime and anti-social behaviour.

Response: This objection forms the basis for the suggested reason for refusal of the application.

- 10.32 Loss of privacy for local residents.

Response: There are no additional windows or access points proposed within the application. It is therefore considered that the level of overlooking will remain as existing with no detriment to neighbouring residential properties.

Other matters:

10.33 There are no other matters considered relevant to the determination of this application.

11.0 CONCLUSION

11.1 To conclude, and taking all matters into account, although there are considered to be minimal concerns in regards to the impact on highway safety, visual and residential amenity, it is the view of officers that it has not been demonstrated that the proposal would not result in an increase in the fear of crime and anti-social behaviour at the premises, particularly due to the lack of any continuous management of the premises and its external area. The resultant decrease in the quality of life and social cohesion of the local community would outweigh this and result in a use which would not create a safe and accessible environment and significantly undermine the quality of life of the local community which is contrary to Chapter 8 of the NPPF.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

12.0 Reason for refusal

12.1 1. It has not been demonstrated that the proposed change of use to a snooker and games room (D2 use), particularly due to the lack of any continuous management of the premises and its external area, would not result in an increase in the fear of crime and anti-social behaviour for the local community. The increased fear of crime and anti-social behaviour would outweigh the benefits of the re-use of the vacant building and fail to create a safe and accessible environment, significantly undermining the quality of life of the local community, contrary to the aims of Chapter 8 of the National Planning Policy Framework.

Background Papers:

Application web page: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93910>

Certificate of Ownership – Notice B served. The applicant, Mr Raza Ayoub, served notice on the land owner, Masum Krolia, on 17th November 2016.