
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 20-Sep-2018

Subject: Planning Application 2018/91623 Change of use from dwelling to sui generis use for commercial letting for more than 6 guests at any one time (within a Conservation Area) 221, Meltham Road, Netherton, Huddersfield, HD4 7BD

APPLICANT

S Wolfenden

DATE VALID

18-May-2018

TARGET DATE

13-Jul-2018

EXTENSION EXPIRY DATE

28-Sep-2018

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: Crosland Moor & Netherton

Yes	Ward Members consulted (referred to in report)
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RECOMMENDATION:**Refuse planning application and authorise the Head of Strategic Investment to take enforcement action to cease its use.**

Refuse planning permission for the following reason:

The scale of the proposed use, with up to 16 people occupying the property at any one time, would cause undue noise and disturbance to occupiers of nearby residential property which could not be effectively controlled by planning condition. Furthermore it would result in an unacceptable impact on highway safety as there are insufficient off-road parking facilities to accommodate occupants leading to indiscriminate parking on nearby roads. The development is contrary to BE1 (iv), T10, T19, EP4 of the Kirklees Unitary Development Plan, Policies PLP 24 (b) , PLP 21 and PLP 52 of the Kirklees Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 This application is brought to the sub-committee at the request of Cllr Manisha Kaushik for the reason that *when considered against adopted planning policy, there are no contraventions and the scheme does not generate any highway safety implications.*
- 1.2 The Chair of the Sub-Committee has confirmed that Cllr Kaushik's reason for making this request is valid having regard to the Councillor's protocol for planning committees

2.0 SITE AND SURROUNDINGS:

- 2.1 221 Meltham road is a substantial two-storey detached dwelling built in traditional materials which is sited with its main (north-west) elevation facing Meltham Road. The curtilage is relatively small and comprises some mostly low-lying land to the south-west and steeply rising land to the rear or south-east. The land rises beyond the site boundaries to the south-west and south-east where there are trees and bushes.
- 2.2 The site is outside the main built-up part of Armitage Bridge, being located at the western end of a short row of terraced dwellings. The dwelling lies on the far west boundary of the Armitage Bridge Conservation Area and is within designated Green Belt.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the change of use from dwelling to sui generis use for commercial letting for more than 6 guests at any one time.
- 3.2 The supporting statement submitted with the application outlines the property is host to 4 bedrooms that can sleep up to 16 people and has been in operation since March 2016.
- 3.3 The statement outlines the property can accommodate up to 3 parking spaces to the front of the dwelling off street and is in close proximity to local bus and rail services. The applicant states that guests are informed of parking arrangements before they arrive, however, if it is necessary for guests to park on street the applicant ensures these vehicles are parked away from the main Meltham Road onto Butternab and Armitage Roads down past residential properties.
- 3.4 In addition to the original submission, following environmental health concerns, the applicant has submitted a noise management plan.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2014/92518 - Erection of attached garage, formation of new access and improvement to parking – Conditional Full Permission
- 4.2 COMP/18/0070 – Concerns raised via Local resident regarding the continued increase in cars parking outside 221 Meltham Road relating to its use as a ‘party house’ and the potential for an accident.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 The agent has been involved in providing additional highway and a noise mitigation plan information following consultation responses. A revised location plan was also sought showing the correct boundary.

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). The Council’s Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

This site is allocated both within the Armitage Bridge Conservation Area and as Green Belt under the Unitary Development Plan and Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 BE1 – Design
- BE2 - Design
- BE5 – Preservation/enhancement of Conservation Areas
- T10 – Highways Safety
- T19 – Highways Standards
- EP4 – noise

Supplementary Planning Guidance / Documents:

- 6.3 PLP 1 – Sustainable Development
- PLP 3 – Location of new development
- PLP 21 – Highway Safety
- PLP 24 – Design
- PLP 52 – Noise

National Planning Guidance:

- 6.4 Chapter 6 – Building a strong, competitive economy
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The plans were advertised by press advertisement, site notice and neighbour letters which expired on the 29/06/18. Following submission of further highway and noise management information the application was advertised for comments until 24/08/18.

7.2 As a result of the above publicity 8 representations were made from 5 interested parties which expressed the following concerns:

- Noise disturbance and associated nuisance that comes with large groups of people
- Restrictive covenants on the deeds stating the property is not to become commercial premises
- Not the type of place you find in a conservation area
- Guests trespass on my land, the guests park on my drive blocking my entrance
- There is a real potential danger to life parking on the road at these junctions or outside the property
- Guests cars block residents driveways when they park on Butternab road
- Noise management scheme is not practical to implement, there can be noise issues 24 hours a day
- Parking on the main road makes turning onto Armitage Road dangerous

8.0 CONSULTATION RESPONSES:

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

8.1 Statutory:

KC Environmental Health: Would support the proposal with the condition of a noise management plan

KC Highways Development Management: Object on lack of off street parking and potential detriment to highway safety caused by guests parking on street.

9.0 MAIN ISSUES

- Principle of development
- Residential amenity
- Visual Amenity & Conservation Area
- Highway issues
- Green Belt
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 This site is allocated both within the Armitage Bridge Conservation Area and as Green Belt under the Unitary Development Plan and Kirklees Publication Draft Local Plan.
- 10.2 Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is mirrored in Policy BE5 of the Unitary Development Plan, emerging Policy PLP35 of the Publication Draft Local Plan together with guidance in Chapter 16 of the National Planning Policy Framework.
- 10.3 Chapter 6 (para 80) of the NPPF asserts that: 'significant weight should be placed on the need to support economic growth and productivity, taking account both local business need and wider opportunities for development'.
- 10.4 PLP3 states that development 'will be permitted where it supports the delivery of...employment growth in a sustainable way, taking account of the following criteria: (including) 'ensuring delivery of...jobs in smaller settlements to meet...local employment needs'.
- 10.5 As such, it is considered that the principle of locating self-catering accommodation in this location could be supported in principle as it would support economic growth in a smaller settlement. This is subject to an assessment of whether that development can be undertaken in a sustainable way. This will take into account the impact on visual and residential amenity, highway safety and any other material considerations. An assessment against the relevant considerations is set out below.

Residential Amenity

- 10.6 KC Environmental Health has been consulted on this application and discussion has been held between the Environmental Health Officer and the Case Officer. The discussions have centred on the noise and disturbance concerns from the proposed commercial letting of the property and whether these could be appropriately mitigated.
- 10.7 KC Environmental Health initially objected to the application stating “ in the absence of a comprehensive and effective noise management plan from the applicant or the option of a condition that restricts the number and type of occupants then I consider that the high potential for significant loss of amenity to nearby residents” following these comments the applicant’s agent submitted a noise management plan for assessment.
- 10.8 On assessment of the noise management plan, KC Environmental Health determined that the information provided significantly reduced their previous concerns.
- 10.9 The noise management plan submitted “details the conditions of letting regarding noise and behaviour. It details the information provided to new guests, restrictions on who may be present at the property, monitoring that will be carried out by the management and their response to excessive noise and complaints received. It details the actions that will be taken by the management to deal with any serious noise disturbance that the management becomes aware of.”
- 10.10 The submitted noise management plan places a particular emphasis on controlling noise after 10pm which is reasonable because that is a time when other background noise levels are likely to have reduced and neighbours will be considering going to bed. However excessive noise, particularly involving loud music is not acceptable at any time.
- 10.11 KC Environmental Health have stated they would now support the application if it could be conditioned that “before the application is brought into use, a noise management plan shall be submitted to and approved in writing by the local planning. The plan shall detail the control measures that will be taken to ensure that excessive noise does not arise from the guests’ use of the property and the actions that will be taken if guests at the property fail to observe the required control measures. The approved noise management plan shall be implemented before use commences and retained thereafter.”
- 10.12 Whilst KC Environmental Health have reduced concerns given the noise management plan submitted, in assessing the application as a whole, it is considered that even with the implementation of a noise management plan the potential level of harm caused to residents would be sufficient to consider refusal of this application.
- 10.13 The noise management plan outlines a number of ways in which the applicant aims to keep noise and nuisance to a minimum through removing guests or withholding deposits where guests are disruptive. However, this method of control relies on affected residents of property raising complaints with the owners, or KC Environmental Health noise nuisance team in order for them to be aware that guests are causing a nuisance.

- 10.14 The level at which noise causes nuisance is subjective. Some neighbours may be more sensitive to noise than others, therefore it is difficult to place a measure on where action is taken to remove guests and where it is considered that the level of noise being created is acceptable.
- 10.15 For the noise management plan to work in the interests of protecting residential amenity, the Owners of the property would have to be present 24 hours a day, when the property is in use, to effectively manage any noise or nuisance issues that may arise.
- 10.16 This request would not be reasonable to impose a condition for a 24 hour presence on the site nor would it be enforceable if the owners had shown they had carried out all reasonable steps to limit noise in the absence of their presence (for instance warning signage, retention of deposits etc). The measures they highlight in the noise management plan, such as retaining deposits, would be of the owners benefit and would not compensate neighbouring residents of the disturbance they had been subjected to. A condition to control the noise management plan therefore does not meet the six tests that make a condition acceptable.
- 10.17 In summary, the proposed use of the building for self-catering accommodation for up to 16 people would result in a material loss to residential amenity for the existing residential properties by reason of noise disturbance which could not be effectively controlled by planning condition. To permit this development would be contrary to Policies BE1, EP4 of the Kirklees Unitary Development Plan, policies PLP 24 (b) and PLP 52 of the Kirklees Publication Draft Local Plan.

Visual Amenity & Conservation Area

- 10.18 The site is within the Armitage Bridge Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area. This is mirrored in Policy BE5 of the Unitary Development Plan, emerging Policy PLP35 of the Publication Draft Local Plan together with guidance in Chapter 16 of the National Planning Policy Framework. The application does not include any physical alterations to the building as such it is considered that the proposed change of use will not have a harmful impact to the special character and appearance of the Armitage Bridge Conservation Area and therefore can be supported as it will satisfy relevant UDP and PDLP Policies together with NPPF Chapter 16.
- 10.19 As this application seeks planning permission solely for the change of use and no external alterations, it would have a neutral impact on visual amenity. As such, the change of use of the building is considered to have a neutral impact on visual amenity, complying with the aims of BE1 and BE2 of the UDP as well as PLP24 of the PDLP from this perspective.

Highway issues

- 10.20 The application site is situated on the B6108 Meltham Road approximately 50m south of the junction with Woodend Road.

- 10.21 This section of Meltham Road has a posted speed limit of 30mph and a system of street lighting. The width of the carriageway has allowed for two right turning pockets to be formed along the site frontage so that drivers can turn onto Butternab Road and Armitage Road without having to stand upon the highway so reduces interference with the free flow of traffic.
- 10.22 In order to serve the proposed use, 3no car parking spaces are shown on the plans. Parking is currently provided through two off-street places on the drive in front of the garage. Furthermore, it is proposed that the hardstanding immediately in front of the cottage that measures 2.7m in width and almost 12m in length could accommodate at least one more car following minor works to lower the height of the short retaining wall.
- 10.23 Prior to the third space being created Highway DM would require details of a swept path analysis of the access and egress into this facility and further details of amendments to the retaining wall.
- 10.24 Under normal circumstances, for a C1 class guest house or hotel, Highways DM would wish to see one off-street parking space per bedroom provided. 221 Meltham Road can accommodate up to 16 guests in 4 bedrooms, so even with the offer of an additional space being created, this proposal falls below the specified requirement in Policy T19.
- 10.25 However, following discussions between the Highways DM team they have determined that applications of this nature cannot be assessed in the same manner as a hotel or guest house where one space per room would be deemed appropriate as, unlike most hotels, there can often be four or five beds in each room. Indeed in this case the occupancy would be a maximum of 4 persons per bedroom.
- 10.26 Again, unlike hotels, the property can only be booked out by one party and is likely to be a meeting point for guests arriving from disparate parts of the country. Given this, it is considered reasonable to request one off-street parking space per two beds, rather than the standard “per room” for hotels and guest houses.
- 10.27 In terms of this application, this would mean in its present guise the dwelling would require eight off-street spaces to be deemed acceptable from a highways perspective.
- 10.28 As pointed out in the Technical Note submitted by the applicant, there have been a number of accidents on this section of Meltham Road, so Highways DM would not wish to see issues exacerbated by increasing on-street parking on a bend on a busy B-class road.
- 10.29 Each week a new set of drivers likely to be unfamiliar with the area would be arriving, and there would be no effective way to condition the requirement not to park on Meltham Road without introducing waiting restrictions. Objections have also been raised regarding the existing situation of visitors parking on Butternab Road.

- 10.30 Application no. 2014/92518 at this property was for the creation of a double garage and hard standing to provide additional parking for a dwellinghouse; however, the double garage is not included as part of the parking provision for this site. The garage has been converted and is currently used as a spa room with hot tub for guests of the property. If the applicant was to revert the garage back to its intended use, they could provide, in total 5 off street parking spaces. However, this would still fall short of the 8 spaces Highways DM have suggested would be necessary for the number of guests that the property can accommodate.
- 10.31 Where there is a short fall in off street parking, the applicant has provided surveys to show that guests could park within the local vicinity on either Armitage Road or Butternab Road. The survey provide concludes that " There is significant available on street capacity and there are also no highway safety concerns within the vicinity of the site".
- 10.32 The applicant did provide information showing how guests travelled to the property between the 3rd June 2018 until the 27th July 2018. This showed a mixture of vehicles, from 50% of bookings using a minibus or similar to drop off at the property to a maximum of 5 cars parking on the drive, Butternab Road and Armitage Road.
- 10.33 Highway DM have reviewed the submitted information and state that whilst the parking survey gives a snapshot of a weekend's occupation of the site, it is difficult to ascertain whether this is the norm. Furthermore, it has to be accepted that, given the proposed use of the development, this site has the potential to attract numerous vehicles far above the off-street parking provision on any given weekend increasing street parking on Meltham Road, Butternab Road, or both.
- 10.34 There would be no way to limit or condition how guests travel and park at the property and therefore it can only be determined that any on street parking in this location will cause disruption to the local highway network and existing on street parking for residents.
- 10.35 In summary, the proposed development, by virtue of its associated intensification in vehicles movements and lack of suitable off-street parking, would result in harm to highway safety. There are no mitigation measures which would avoid this detrimental impact on highway safety and the development would fail to comply with T10 and T19 of the UDP, PLP 21 of the PDLP and paragraph 109 of the NPPF.

Green Belt

- 10.36 Paragraph 146 of the NPPF states that material changes of use of land and the re-use of buildings are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. As there are no physical changes to the building, excepting the provision of an additional parking space, it is considered the proposal would comply with national Green Belt policy.

10.37 Representations

As a result of the above publicity 8 representations were made from 5 interested parties which expressed the following concerns:

Comment: Noise disturbance and associated nuisance that comes with large groups of people

Response: This is considered in the report above

Comment: Restrictive covenant on the deeds stating the property is not to become commercial premises

Response: This is not a planning matter that can be considered under this application

Comment: Not the type of place you find in a conservation area

Response: The application does not include any physical alterations to the building as such it is considered that the proposed change of use will not have a harmful impact to the special character and appearance of the Armitage Bridge Conservation Area

Comment: Guests trespass on my land, the guest's park on my drive blocking my entrance

Response: Highways matters are considered above, however planning cannot deal with private legal issues.

Comment: There is a real potential danger to life parking on the road at these junctions or outside the property

Response: This is considered in the report above

Comment: Guests cars block resident's driveways when they park on Butternab road

Response: Highways matters are considered above, however there are no restrictions to parking on the road in the area nor can it be considered that all visitor cars in the area are associated to 221 Meltham Road

Comment: Noise management scheme is not practical to implement, there can be noise issues 24 hours a day

Response: This is considered in the report above

Comment: Parking on the main road makes turning onto Armitage Road dangerous

Response: This is considered in the report above

11.0 CONCLUSION

11.1 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.

- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposal does not accord with the development plan and other material considerations for the reasons set out above.
- 11.3 Weight has been afforded to the fact that the development would result in some direct employment opportunities through the business and from the maintenance of the commercial property. Furthermore there would be indirect benefits to the economy of the area through increased tourism and expenditure associated with additional visitors to businesses and attractions. Notwithstanding this, the development could not be undertaken in a 'sustainable' manner due to the adverse impacts on existing residents and highway safety. The adverse impacts of the development would significantly and demonstrably outweigh its benefits. For these reasons the application is recommended for refusal.

Background Papers:

Application and history files.

2014/92518: Erection of attached garage, formation of new access and improvement to parking facilities (within a Conservation Area) Conditional Full Permission

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014/92518>

Current Application :

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/91623>

Certificate of Ownership – Signed Certificate A