

Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 13-Jun-2019

Subject: Planning Application 2019/91110 Change of use from A1 (retail) to A1 (retail) and A3 (restaurant/cafe/drinking establishment) (within a Conservation Area) Ginger Whale, 344, Oxford Road, Gomersal, Cleckheaton, BD19 4JR

APPLICANT

Peter Mead, Ginger Whale

DATE VALID

03-Apr-2019

TARGET DATE

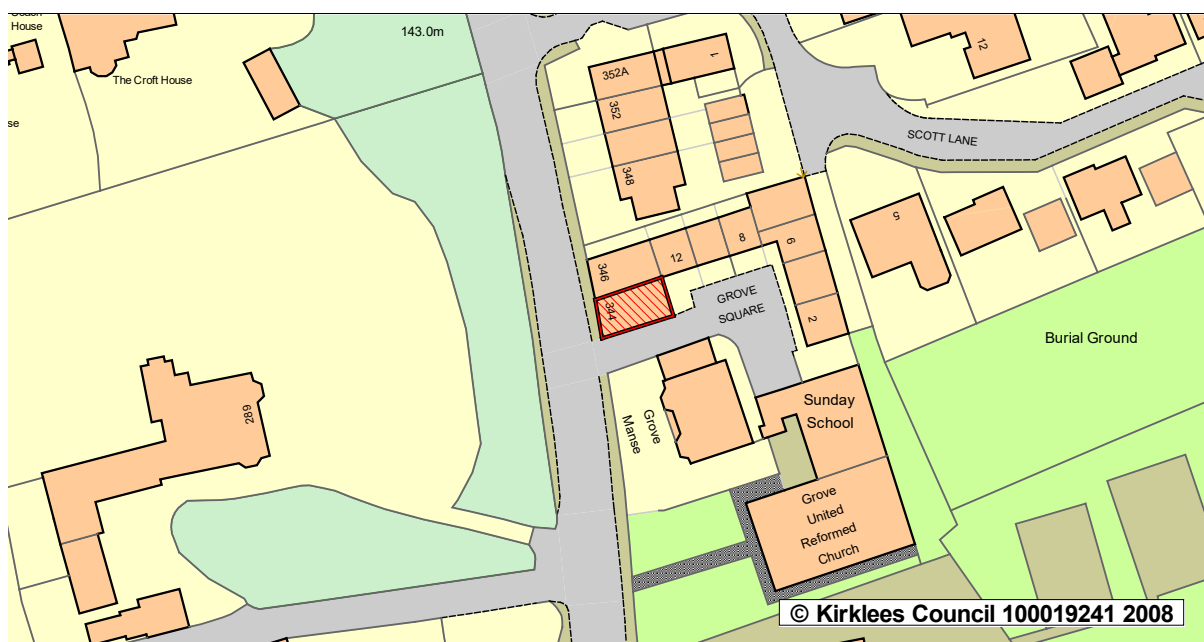
29-May-2019

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: Liversedge and Gomersal

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within the report.

1.0 INTRODUCTION:

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee because the applicant is the spouse of Ward Councillor Grainger- Mead.
- 1.2 This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The Ginger Whale is a coffee shop, deli and speciality food shop located at no.344 Oxford Road, Gomersal. It is a two storey building which fronts immediately onto Oxford Road. It is attached to no.346 Oxford Road, which is in use as a hair and beauty salon.
- 2.2 Within the wider area, there comprises of a mix of retail and residential premises.

3.0 PROPOSAL:

- 3.1 The property was in a retail (Class A1) use prior to the coffee shop element being introduced which has been operating under temporary permitted development. The applicant is now seeking full planning permission to make the change of use to A1 shop and A3 coffee shop permanent.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2015/91791 – temporary change of use to A1 & A3 - noted

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

- 5.1 None required

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan however, it is within the designated Gomersal Conservation Area.

Kirklees Local Plan (adopted 2019):

- 6.2 **LP1** – Sustainable development
LP24 – Design
LP21 – Highway safety
LP35 – Historic Environment
LP52 – Protection and improvement of environmental quality

National Planning Guidance:

- 6.3 **Chapter 6** – Building a strong, competitive economy
Chapter 7 – Ensuring the vitality of town centres
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been publicised in accordance with the Development Management Charter. As a result, no representations have been received.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

K.C. Highways Development Management – No objection

K.C. Environmental Services – no objection however suggested condition in terms of the opening hours to protect the amenities of neighbouring properties into the future.

9.0 MAIN ISSUES

- Principle of development
- Visual and residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.
- 10.2 The premises is located within the Gomersal Conservation Area and as such consideration in terms of policy LP35 of the KLP and Chapter 16 of the NPPF is required. In this instance, there are no external alterations proposed to the building and the use has been operating on a temporary basis for some time. It is considered that there would be no impact in terms of the Conservation Area.
- 10.3 It is noted that the premises is not located within the defined centre of Gomersal and that the use as an A1 and A3 business would not normally be considered to be acceptable out of a town/village centre. However, in this instance, the business has been established for some time and prior to the temporary change of use it was a shop. Given the previous use and the established nature of the business, the proposal is considered to be acceptable in this out of centre location and would not contradict the aims of Chapter 7 of the NPPF, which highlights the importance of supporting the role of town centres. The proposal would, in fact, comply with the aims of Chapter 6 of the NPPF which sets out that planning decisions should, amongst other things, help to create the conditions in which businesses can invest, expand and adapt. Furthermore, significant weight should be placed on the need to support economic growth ... taking into account both local business needs and wider opportunities for development.
- 10.4 In this case, the principle of development is considered acceptable and would enable the existing, well-established use to continue to operate from the premises. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

Visual and residential amenity considerations

- 10.5 There are no external alterations proposed to the building. The use has been established on a temporary basis under permitted development and has integrated within the area well. As such, the proposed permanent change of use is considered to be acceptable in terms of visual amenity.
- 10.6 The application form states the opening hours are currently 9am until 7pm Monday to Friday and 9am until 5pm on Saturday. The current hours are not considered to be unreasonable and no complaints have been received from neighbouring residents. Kirklees Environmental Health have suggested conditioning the openings hours to between 8am and 8pm so as to protect the occupants of the neighbouring properties. This is considered to be reasonable to protect neighbouring occupants into the future from increased opening hours which may adversely affect the amenities of the neighbouring properties should the premises be sold/change ownership and introduce a different business model, in accordance with policy LP52 of the KLP and Chapter 15 of the NPPF.

- 10.7 The applicant has expressed concerns at the proposed restriction as part of the existing business model does include events such as gin tasting sessions which may take place after the specified opening hours set out in paragraph 10.6 above. Whilst there would be concerns regarding the proximity to residential properties with unrestricted opening hours, occasional use outside of the hours of 8am until 8pm could potentially be agreed via a bespoke condition for up to a certain number of occasions within the calendar year. This is considered reasonable by officers and would provide the business some flexibility whilst preserving the amenities of the neighbouring residents. It is suggested as part of the condition that the applicant notifies its neighbours 10 working days before any such event takes place.
- 10.8 Given the coffee shop element of the unit has been established for some time, if the use is operated in line with the proposed restrictions, there would be limited potential for further impact on the amenities of the occupants of the neighbouring properties over and above the existing arrangements on site. As such, the proposal under consideration is considered to be acceptable in terms of residential amenity and complies with policy LP24 of the Kirklees Local Plan.
- 10.9 To summarise, the proposal is considered, by officers, to be acceptable from both a visual and residential amenity perspective and, with the inclusion of the suggested conditions would ensure that this would remain the case in perpetuity, in accordance with the aims of policies LP24 and LP52 of the KLP as well as Chapters 12 and 15 of the NPPF.

Highway issues

- 10.10 Highways Development Management (HDM) has reviewed the application. They have observed that the unit has a limited number of seats available and has been operating for some time without detrimentally impacting on highway safety; and that on-site observations confirmed that very few traffic movements were associated with the site, and although two-way flow was occasionally compromised, visibility beyond any parked vehicles was good.
- 10.11 Taking the above into account, it is considered that there would be no impact on highway safety over and above the existing arrangements on the site. The scheme is therefore considered to represent no undue harm in terms of highways safety and complies with policy LP21 of the Kirklees Local Plan.

Representations

- 10.12 None received

Other Matters

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

11.0 CONCLUSION

11.1 This application for a change of use from A1 to mixed A1 and A3 has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

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. This application has been assessed against relevant policies in the development plan and other material considerations.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

1. Other than the prior approved hours permitted under condition 2, the use hereby permitted shall not be open to customers outside the hours of 8am to 8pm Monday to Saturday and shall not be open to customers on Sundays.
2. The premises may be open to customers between the hours of 20:00 and 23:00 for not more than 12 occasions in total in any calendar year providing that 10 working days prior to each of these occasions, details of the time and date have been provided to the neighbouring occupants.

Background Papers:

Link to application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91110>

Certificate of Ownership – Notice served on 02/04/2019

Link to previous Temporary Approval:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91791>