
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 22-Jun-2017

Subject: Planning Application 2017/91235 Change of use of dwelling to mixed use dwelling and catering (to operate meals on wheels service) 29, Clay Butts, Birkby, Huddersfield, HD2 2FW

APPLICANT

Mrs S Nater

DATE VALID

10-Apr-2017

TARGET DATE

05-Jun-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: GREENHEAD

No

Ward Members consulted?

RECOMMENDATION:

DELEGATE approval of the application, for a temporary trial period, 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 this report.

1.0 INTRODUCTION:

- 1.1 This applicant is brought before Sub-Committee for determination due to the significant number of representations received.

2.0 SITE AND SURROUNDINGS:

- 2.1 29 Clay Butts is a link-detached dwelling on a modern housing estate. It is situated on the north side of the highway at the head of a cul-de-sac. Clay Butts continues to the east to join the main highway network. The dwelling has an attached single garage at the side and a single-width driveway some 20m in length. The surrounding houses are semi-detached or detached dwellings.

3.0 PROPOSAL:

- 3.1 The proposal is for the use of the dwelling to operate a meals-on-wheels service in addition to the existing use as a dwellinghouse. The proposal is to prepare meals for elders within the Indian community who are vegetarian and unable to cook for themselves, and require meals that have been prepared in a meat and egg-free kitchen so there is no risk of cross-contamination.
- 3.2 It is proposed that the applicant and her husband would prepare up to 30 meals a day in total – 20 lunchtime and 10 evening – Monday to Saturday. However, they would be prepared to cater for larger one-off bookings – such as by a care home – if required. All deliveries would be undertaken by the applicant's own private cars and they will only deliver to within a 5 mile radius of the HD2 postcode area. Cooking would be carried out in the existing kitchen and no external alterations to the premises would be carried out.

3.3 The applicant has supplied a short additional statement making the following points of clarification:

1. This is not a takeaway. It is a meals on wheels service.
2. We will not have customers or delivery cars coming to our home to pick up meals.
3. It is only my husband and I who will deliver meals at 2 set times during the day. These will be pre-ordered at a minimum of 24 hrs notice.
4. To start with the volume of meals will be low. Therefore we do not wish to incur costs associated with renting a commercial kitchen as we will not be able to sustain the costs. Once our demand increases to over 20 lunches then we will have to look elsewhere for a commercial kitchen.
5. An Environmental Health Officer (Leanne Perry, Food Safety team) has already visited our property and confirmed that she has no objections in principle. Waste will be bagged and disposed in accordance with her advice.

4.0 RELEVANT PLANNING HISTORY:

4.1 None.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Applicant supplied details of ventilation – 15-May-2017.

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 weight to be given to the Local Plan will be determined 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 Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D2 – Unallocated land
T10 – Highway safety
T19 – Parking provision

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is without notation within the publication draft local plan.

Policies:

PLP 21 – Highways and access.

PLP 22 – Parking.

PLP 52 – Protection and improvement of environmental quality.

Supplementary Planning Guidance / Documents:

- 6.3 None applicable.

National Planning Guidance:

- 6.4 National Planning Policy Framework.

Core Planning Principles

Section 1 – building a strong, competitive economy – see ‘facilitate flexible working practices such as the integration of residential and commercial uses within the same unit’

Section 11 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was publicised by the posting of 1 site notice in the vicinity of the site and the mailing of 2 neighbour notification letters. This resulted in the submission of a petition 38 signatures and letters from 10 individual local residents objecting to the proposal. The issues raised can be summarised as follows:

Highway safety concerns:

- Access is limited because of the size and shape of the road, which also has no footways.
- A lot of cars park on the highway.
- Problems with access for emergency vehicles.
- Risk of accidents because of children playing in the road.

Residential amenity concerns:

- It is a residential not a commercial area.
- Negative impact on amenity, including noise and cooking odours.

- More waste generation – the existing bins are barely sufficient to cope with domestic waste as it is, waste may attract vermin such as mice and rats, and problems caused by disposal of cooking oil.
- Loss of privacy.
- Not enough room to safely store food indoors and outdoor storage may attract vermin.

Other concerns:

- The business may expand in the future, especially once the 12-month period is over.
- It is a link property not detached – concern about fire risks
- Safety of children on the premises
- The lease agreement with Thornhill Estates does not allow any use except as a private dwelling and further says that no business or trade may be carried out which may cause annoyance to leaseholders in adjoining properties.
- May infringe Article 8 of Human Rights Act
- Reduction in property value
- Notice not served on owners.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

There are no statutory consultees

8.2 Non-statutory:

KC Highways Services – No objection in principle but a temporary permission is recommended.

KC Environmental Services – No objection in principle subject to conditions.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site has no specific allocation on the UDP Proposals Map. Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan” will be granted provided that the proposals do not prejudice a specific set of considerations including visual and residential amenity and highway safety. Subject to these not being prejudiced the proposal is considered acceptable in principle in relation to policy D2.

Chapter 1 of the NPPF, “Building a strong, competitive economy”, paragraph 21 states that local planning authorities should facilitate flexible working practices such as the integration of residential and commercial uses within the same unit. Chapter 11, “Conserving and enhancing the natural environment, states that any possible implications for pollution, including noise, must be assessed in the planning process.

The current proposal would, in principle, meet the objectives of sustainable economic development specifically those set out in NPPF Chapter 1, subject to an assessment of amenity, environmental, and highway safety issues. In particular it will need to be assessed whether the proposed use can operate without giving rise to loss of amenity to neighbouring residential properties arising from exposure to odours, excessive levels of noise, or disturbance; whether the proposed use would give rise to highway safety problems arising from parking or the intensification of the use of the access or local highway network; and whether waste disposal can be effectively dealt with.

Urban Design issues

- 10.2 The proposal would not involve any external changes to the building and it is therefore considered that it would have no implications for urban design.

Residential Amenity

- 10.3 NPPF Core Planning Principles state that development should seek to secure a good standard of amenity for all existing and future occupants of land and buildings, and NPPF Policy 11 advises that the effects of pollution on health, the natural environment or general amenity should be taken into account in the determination of planning applications.
- 10.4 Environmental Health, in their consultation response, recommend that commercial food storage, preparation and cooking should not be carried out in any room other than the existing kitchen. This is to ensure that the catering use remains small-scale. They also recommended that details of any extract ventilation system should be supplied before the application is determined – this is a standard condition on any proposal involving hot food preparation.

- 10.5 The applicant has confirmed that removal of fumes from the kitchen would mainly be by passive ventilation from open windows. The rear-facing kitchen window is approximately 4m from the side boundary with 31 Clay Butts to the east and any drift of fumes to the east caused by the prevailing wind would be partly obstructed by the position of the existing garage. In subsequent email correspondence with the case officer, the Environmental Health Officer concluded that given the limited amount of cooking that would take place, this arrangement is acceptable and that a purpose built ventilation and filtration system is not necessary. It is recommended that a condition be applied that no cooker or similar apparatus may be installed in the garage or any other room of the house, in order to retain adequate planning control over the scale of the use. Owing to the scale of the use proposed it is considered unnecessary to impose a condition restricting hours. It is considered that the overall level of activity arising from the proposed use including vehicular journeys (see "Highway issues" below) would not be such as would detract from the amenities of residential properties near the site.
- 10.6 In conclusion, it is considered that given the relatively small scale of the use proposed, it is expected that it would be able to operate without causing harm to the amenities of neighbouring residential properties subject to the condition set out in the paragraph above. However, notwithstanding the Environmental Health Officer's views, it is considered as a precautionary measure that the permission granted at this stage should be a temporary one for a period of 12 months. This will allow the impacts of the proposal to be monitored during this time so that in the very unlikely event of it giving rise to residential amenity problems it can be discontinued at the end of this period unless a new application is made.

Housing issues

- 10.5 The proposal would not result in the loss of an existing housing unit as the property would continue to function principally as a dwellinghouse.

Highway issues

- 10.6 The cul-de-sac serving 9-39 and 22-24 Clay Butts is rather narrow in places, varying between 3 and 6m in width, and has no separate footways. It is about 80m from the centre of the turning head, near to the application site, to the junction where the cul-de-sac joins the main part of Clay Butts, which is wider (5m minimum) and has footways each side. However, the junction and turning head are laid out to modern standards, and traffic speeds and volumes are expected to be low at this location. All the dwellings have private parking provision and so there would appear to be very little reason for drivers to park on the highway unless visiting, so there are few obstructions to negotiate.
- 10.7 The driveway to no. 29 would accommodate at least 4 and possibly 5 vehicles and it is therefore not anticipated that the change of use would give rise to any parking demand that could not be comfortably met within the site. It is proposed that only 2 vehicles would operate from the premises and that

no drivers would be employed. If each undertakes two daily “runs” – one lunchtime, one evening – this would amount to a maximum of 4 additional car trips per day.

- 10.8 It is considered that given the nature of the local highway network, the scale of the proposed use, and that it would operate without using large commercial vehicles, it is considered that in all probability the proposed use could operate without giving rise to highway safety problems as it would only represent a modest intensification. However, as a precautionary measure, and in accordance with the Highway Officer’s advice, it is recommended that at this stage a temporary permission should be granted for a period of 12 months. This will allow the impacts of the proposal to be monitored during this time so that in the very unlikely event of it giving rise to highway safety problems it can be discontinued at the end of this period unless a new application is made. Subject to this it would accord with the aims of Policy T10 and T19.

Drainage issues

- 10.9 It is considered that the proposal does not raise any additional issues for foul drainage or surface water drainage.

Waste disposal

- 10.10 The applicant currently has 2 green wheeled bins and a single grey one and estimates that the proposed use will not generate any waste over and above that which the existing bins are able to take. The applicant has proposed that if the existing waste bins are not sufficient then she will either request an extra one from the Council or alternatively take the waste to Huddersfield Waste Recycling Centre herself. It is not standard practice for Kirklees to provide a second domestic grey wheeled bin for household waste, so if the applicant required another one it would have to be dealt with as trade waste, for which there is a small collection charge. If this option were to be chosen, then there are four sizes of commercial waste bin available; the smallest, at 240 litres, is the same as a domestic waste bin, and it could easily be stored by the side of the house on the driveway next to the existing waste bins. It is considered on balance that the proposed use is unlikely to generate waste that would lead to storage and disposal problems affecting residential amenity and that there is no need to request any further information from the application regarding this. This aspect of the proposal would therefore comply with the aims of Policy D2.

Representations

- 10.11 Concerns relating to residential amenity and highway safety issues have been examined in the main part of the assessment but are highlighted here together with other issues raised and officer responses.
- Access is limited because of the size and shape of the road, which also has no footways.
 - A lot of cars park on the highway.

- Problems with access for emergency vehicles.
- Risk of accidents because of children playing in the road.

Response: Based on the nature and scale of the use proposed, and on the Highway Officer's comments, it is considered that the level of additional traffic generated would be minor and that the local highway network is adequate to cope with it.

- It is a residential not a commercial area.

Response: This is noted, but this does not automatically rule out business uses at home if these can be carried on without causing harm, see section 1 of the NPPF.

- Negative impact on amenity, including noise and cooking odours.

Response: It is considered that the use involved would not generate much noise over and above what normal domestic use of the kitchen would, and that based on Environmental Health advice the level of odours generated would not be such as would give rise to loss of amenity.

- More waste generation – the existing bins are barely sufficient to cope with domestic waste as it is, and problems caused by disposal of cooking oil.

Response: It is considered on the basis of the information supplied that only modest amounts of additional waste would be created and, as set out in paragraph 10.11 above, this could be stored and disposed of without causing any problems.

- Loss of privacy.

Response: There is no evident reason why the proposed use would give rise to loss of privacy.

- Not enough room to safely store food indoors and outdoor storage may attract vermin.

Response: Given the scale of the use proposed, and given the lack of objection from Environmental Health, it is expected that there would be sufficient space within the dwelling to store food safely. Food safety is however covered by other regulations, which the applicant would need to demonstrate compliance with, and this aspect of the proposal is therefore not considered to be a material planning consideration.

- The business may expand in the future.

Response: This can be addressed by a condition limiting food preparation and cooking to the existing kitchen. In the event of an application being made for a permanent permission at the end of this period, and such a permission being granted, the same condition could be re-applied.

- It is a link property not detached – concern about fire risks

Response: Fire safety is normally considered to be under the remit of Building Regulations and Health & Safety law, not the planning system, and so is not regarded as a material consideration in this case.

- Safety of children on the premises

Response: This would be covered by other legislation and is not considered to be a material planning consideration.

- The lease agreement with Thornhill Estates does not allow any use except as a private dwelling and further says that no business or trade may be carried out which may cause annoyance to leaseholders in adjoining properties.

Response: Enforcement of the terms of a lease is a private civil matter.

- May infringe Article 8 of Human Rights Act

Response: Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However the test is whether this is proportionate. In this case given the scale of development proposed, together with the recommended conditions it is considered that, in balancing all the factors, a grant of planning permission would be acceptable.

- Reduction in property value

Response: This is not considered to be a material planning consideration.

- Site notice not posted.

Response: The site notice was posted on 27-Apr-2017 at the time of the officer's site visit. In addition, neighbour notification letters were posted and it is considered that all third parties have had sufficient chance to comment.

10.12 Members are asked to note that the wording of a paragraph in the petition: ". . . over 200 meals being prepared and delivered to customers twice a day 6 days a week . . ." would seem to imply that over 200 are to be prepared every day, when in fact the total would only be 30 per day, or 180 per week.

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, the NPPF, the draft local plan and other material considerations. It is considered that the development would constitute sustainable development. The proposal is considered not to have a materially adversely impact on the character of the area, highway safety or residential amenity. It is therefore recommended for approval subject to a temporary permission for 12 months being granted in the first instance so that the impact of the change of use on highway safety and residential amenity can be monitored during this period.

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

1. Permission to be for a period of 12 months from the date permission is granted.
2. No cooker or cooking appliance shall be installed on the property except within the existing kitchen serving the property.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91235>

Certificate of Ownership – Certificate A signed