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**2022/1082**

Mr Gareth Glyn Lloyd

Change of use of outbuilding to allow use for recreational activities as a personal trainer

12 Newark Close, Staincross, Barnsley, S75 6NN

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**Site Location & Description**

The applicant's property is a detached residential bungalow located on Newark Close in Mapplewell. Newark Close is a cul-de-sac, with the property in question on the right-hand side (Western side), close to the junction between Newark Close and Edgehill Road. The site is located in the Urban Fabric in what is an entirely residential area comprised almost entirely of bungalows. The dwelling features an attached bungalow to the side, a hard surfaced parking area to the side/front bounded by a knee-height bricked wall.

There is a pedestrian access to the rear of the side to the Southern side, leading to a detached outbuilding which was approved through application ref. 2017/1032.



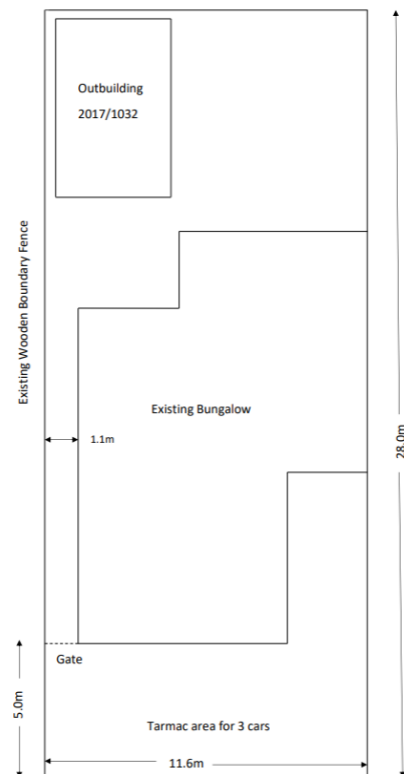
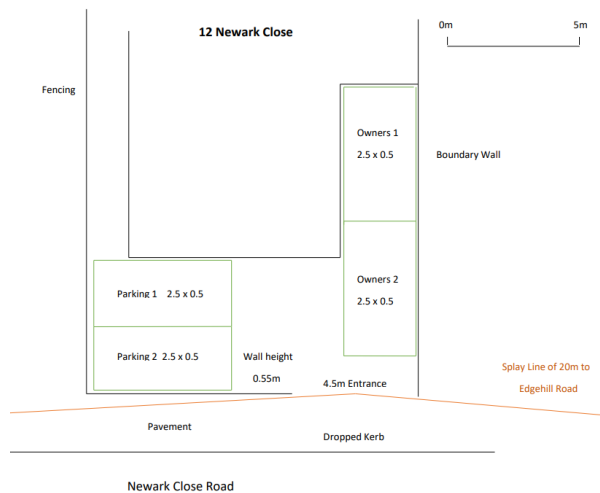


## Proposed Development

The applicant is seeking approval to change the use of the existing detached outbuilding in the rear garden of the dwelling to be used for commercial purposes for what is described as 'recreational activities' as a personal trainer. The applicant initially submitted a written statement outlining the level of use proposed within the building, which has been amended. The amended scheme now proposed to use the building for the following:

- Operating hours 9am-5pm Monday to Fridays (reduced from 07:30am-6pm) and 9am to midday on Saturdays,
- 45-minute appointments with 15-minute interval between clients, with strict appointments observed,
- Maximum of 5 clients per day, with parking provision to the front of the dwelling, utilising the existing hard surfacing,
- Proposed parking layout to the front for 4 vehicles (2 clients and 2 owner spaces).

### Proposed parking layout plan:





It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Within section 12, paragraph 134 is the most relevant which states that “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design

In addition paragraph 87 states the following “Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

### Local Plan

In reference to this application, the following policies are relevant:

Policy SD1: Presumption in favour of Sustainable Development – sets out principles when considering development proposals.

Policy GD1: General Development – sets out appropriate proposals for development.

Policy D1: High quality design and place making – sets overarching design principles for the borough to ensure that development is appropriate to its context, and improves what needs improving, whilst protecting what is good about what we have.

Policy T4: New Development and Highway Improvement - New development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement.

Poll1: Pollution Control and protection - Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.

We will not allow development of new housing or other environmentally sensitive development where existing air pollution, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.

Developers will be expected to minimise the effects of any possible pollution and provide mitigation measures where appropriate.

TC1: Town Centres - Support will be given to maintaining and enhancing the vitality and viability of the following hierarchy of centres:

Town: Barnsley Town Centre

District: Cudworth, Hoyland, Wombwell, Goldthorpe, Penistone, Royston

Local: Athersley, Bolton on Dearne (St Andrew's Square), Darfield, Darton, Dodworth, Grimethorpe, Hoyland Common, Lundwood, Mapplewell, Stairfoot, Thurnscoe (Houghton Road), Thurnscoe (Shepherd Lane)

All retail and town centre developments will be expected to be appropriate to the scale, role, function and character of the centres in which they are proposed.

A sequential approach will be used to assess proposals for new retail and town centre development. This will help to achieve the spatial strategy for the borough and will focus development on identified centres in the first instance. Edge of centre and out of centre development will only be allowed where it meets the requirements of NPPF.

Impact assessments will also be required as laid out in policy TC3. These should comply with the requirements of the NPPF.

## **Consultations**

Highways DC – Initially requested further information to support the scheme including a parking plan which shows the available parking to the front of the dwelling, number of clients and whether adequate turning facilities are included in the site and visibility. Information was also sought as to how pedestrians/clients would safely access the outbuilding to the rear through the parking area. Upon receipt of various pieces of information, highways raised concern with the parking arrangement. Specifically, in relation to the intensification of the use of the existing access for commercial purposes, the parking arrangement on site does not comply with the requirements of the Parking SPD and the likelihood that vehicles will indiscriminately park on the street. An objection is raised to the application on highways grounds with a recommendation for refusal.

Ward Councillors – Queried whether the applicant was related to a council employee.

Pollution Control – No concerns raised.

## **Representations**

Neighbour notification letters were sent to surrounding properties, 10 letters were received to the proposed development in total. 9 of which objected to the proposed development, raising the following concerns:

1. Noise and general disturbance – the outbuilding has been used for personal training in the past which has led to noise and general disturbance to neighbouring properties, in the early morning and late at night. Noise ruminating from the building such as the use of medicine balls, counting down and general conversation can be heard from neighbouring properties. Also clients arriving and leaving in the early morning and late in the evening is also problematic for neighbours. The outbuilding is in close proximity to neighbour's private gardens and windows and the use will have a detrimental impact on people's amenity, privacy and enjoyment of their home.
2. Highways issues – The proposed use has previously led to parking issues in the area with clients parking on the street/cul-de-sac which causes difficulty for residents. The proposed application states that clients will be encouraged to walk or cycle to the site which is not a realistic aspiration. Due to the distance to travel, poor weather and people's preference to drive, clients will do this and park on the street which blocks up the road.
3. The area is entirely residential and the use of the outbuilding (or the dwelling) for commercial purposes is completely against the existing pattern of development in the area. Newark Close is a quiet and peaceful area which has previously been disrupted by the commercial use on the building and the application threatens to do the same.
4. The applicant is already operating from a commercial unit which is clearly more suitable for the business rather than the small back garden of a residential property. First and foremost, this is a residential area and should not be used for commercial/business uses where there would be a harmful impact on the amenity of neighbouring properties.

The impact on the value of the neighbouring resident's home has also been raised as a concern but this is not a material planning consideration. Additionally, it has been questioned whether the use of a dwelling (or outbuilding) on the estate contravenes the deeds of the properties which states that business cannot be run from the premises.

One letter of support was received, supporting the development stating that no objections are raised and would encourage the use which can be deemed as a positive for the local community to have somewhere which is private, and has benefits to mental health and wellbeing. The use is also a deterrent to criminals if people are regularly using the outbuilding. Parking does not affect the neighbour.

## **Assessment**

### Principle of development

The site falls within the urban fabric which has no specific land allocation; however, the application site is a residential property, and the immediate surrounding area is made up principally of housing. The proposed development is to change the use of the applicant's outbuilding in the rear garden area from an ancillary domestic building to be used for commercial purposes – recreational activities for a personal trainer. There is no specific policy in the Local Plan which refers to such developments and the starting point is Local Plan Policy GD1: General Development and Local Plan Policy TC1: Town Centres. These policies refer to the need for development to not detrimentally impact the amenity of neighbouring properties and situating typical town centre uses in the town, district or local centres of the Borough as outlined in Local Plan Policy TC1.

The impact on residential amenity will be outlined in the below section referring to residential amenity. However, the proposed use qualifies as a typical town centre use, outlined specifically in the subtext to Local Plan Policy TC1 as being '*retail, leisure, entertainment facilities, more intensive sport and recreation uses, offices, arts, culture and tourism development.*' As such, in line with Local Plan Policy TC1 and NPPF paragraph 87, LPAs should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Town centre uses should be located in town centres, district centres or local centres, with the area not being located in the nearest local centres of Mapplewell or Darton – 630m from the nearest centre which is Mapplewell.

The applicant has not provided a sequential test, as typically required for this type of development, however the applicant has stated on numerous occasions, including in the submitted planning statement, that they are currently operating out of a commercial unit on Mapplewell Drive which is an edge of centre location. It is considered that this would clearly be a more appropriate use for the development rather than what is a residential area. As such, it is considered that a sequential test would be a rather fruitless exercise in this instance as it is clear that more suitable sites are available in the Borough. The proposed development is therefore contrary to Local Plan Policy TC1 and NPPF paragraph 87 and is unacceptable in principle.

### Residential Amenity

The site is located within an established residential area, of fairly high density with properties to all sides of the rear garden/outbuilding at a very close proximity. A significant number of concerns have been raised by neighbouring residents to the proposed use of the building for commercial purposes due to the perceived impact on noise and general disturbance. The overriding concern is that the site is residential, is quiet and peaceful and the proposed development would fundamentally change this, whilst having a direct detrimental impact on neighbouring amenity.

The use of a gym/personal training is inherently noisy, albeit associated with noises which are wide ranging depending on what activity is being undertaken. The applicant has provided information in regard to the type of activities which will be undertaken, and the machines used in the outbuilding, but there has no supplementary information which has been provided (such as a noise impact assessment, for example) which would provide evidence that the noise generation is to an appropriate level for a residential area and that the impact on neighbours is acceptable. Further, the manner in which clients arrive to the site and leave cannot be controlled by the applicant or the council and clearly this has previously been an issue as outlined by the neighbour comments.

The outbuilding is located in a fairly small rear garden, on the Southern and Western boundary lines of the curtilage. The elevation of the nearest properties are no. 10 Newark Close (5m to the South, with the side elevation of garage on the boundary line), no. 28 Edgehill Road (5.5m to the North) and no. 1 Wheatley Rise (7.5m to the West). There is no defined separation distance in policy which requires home businesses to be a certain distance from neighbouring properties, but this is considered to be very close given the inherently noisy use that is proposed. In the opinion of the Local Planning Authority, there is a high likelihood that the amenity of neighbouring properties will be detrimentally impacted given the close proximity and the proposed commercial use in what is a closely linked, entirely residential area.

Although no objections have been raised by Regulatory Services in regard to noise and disturbance, these are balanced against the assessment of the proposed developments impact. Regulatory services have a higher threshold in terms of noise (i.e. will the noise cause a statutory nuisance), and

this does not mean that there will be no adverse impact from the commercial activity being carried out. Likewise, it is appreciated that the applicant has provided a significant amount of written information to support the scheme, including several re-written planning statements outlining the nature of the business and the anticipated activities taking place. However, the proposal would nonetheless be introducing commercial activity to the area, and would result in regular coming and goings of visitors and vehicle movement to the front of the dwelling, including pedestrian access to the rear garden/outbuilding which is in very close proximity to neighbouring properties/windows.

The granting of this planning permission would also set a precedence for future applications which could lead to a proliferation of non-residential uses in residential areas. It is in this regard that the application is considered unacceptable and contrary to Local Plan Policy GD1 and POLL1 in that the proposal would have an unduly harmful impact on the living conditions of existing, neighbouring and nearby residents.

### Highways Safety

Highways DC have been consulted on the proposed development and have been involved in the scheme since an early period. Concerns were initially raised, and requested further information as to the following elements:

- Parking provision on site for the applicant/existing tenants, and for clients,
- Parking layout plan showing the position of the parking, notes added to resident/client parking and a turning/manoeuvring area of 6m,
- Provision of appropriate visibility when leaving the parking area/access,
- Client numbers,
- Safe pedestrian access to the rear.

Upon receipt of additional information, highways retained their concerns that the proposed parking layout, lack of safe pedestrian access and lack of manoeuvring area was not considered to be appropriate to serve the proposed use. The proposed parking layout shows space for 4 vehicles, with the owners space to the right hand side, and proposed parking spaces to the left hand side. It is the Council's opinion that this arrangement is unacceptable due to the lack of safe external pedestrian access through/passed parking spaces 1 and 2 into the rear garden, and the lack of manoeuvring space. Specifically, owners parking 1 and 2 will directly obstruct the turning area for the proposed parking and result in much less than the required 6m aisle area. The applicant has argued that the space used in owner space 2 would never be used at this current time, however this does not include future use of the future tenants/residents and if the applicant's home situation changes. Equally, the applicant has indicated that they encourage clients to arrive by non-motorised means (running, cycling or walking), however this cannot be controlled by a planning condition.

There is general concern that the proposed parking arrangement, parking layout plan or the submitted information will ensure that clients can safely park on the proposed area, manoeuvre within the site and enter the highway in forward gear, which will very likely lead to clients parking on the road which is clearly an easier option and would not be controllable by the Council through a planning condition. The site is in very close proximity to a corner junction and parking on the road would have a detrimental impact on visibility for other road users.

The proposed development is contrary to Local Plan Policy T4 and the Council's Parking SPD and is considered to be unacceptable in terms of highway safety.

### Visual Amenity

No external change to the outbuilding and the proposed development is acceptable in terms of visual amenity.

### Conclusion

The proposed development is for the change the use of the applicant's outbuilding from a domestic ancillary outbuilding into a commercial building for recreation uses for personal training. The

outbuilding is existing and was approved under application ref. 2017/1028. The Local Planning Authority has found significant concerns with the application for the following reasons:

1. The proposed use is a typical town centre use located in an area that is not within one of the Borough's defined Centres (Town, District or Local), or on the edge of any of the centres. The Council is required to take a sequential based approach to such developments to demonstrate that there are no preferential sites located within any available units/buildings within one of the centres, with the town centre being the priority. The applicant has indicated on numerous occasions, including within the original planning statement, that they operate out of an existing commercial unit on Mapplewell Drive, which is an edge of centre location and is clearly more appropriate for this type of use than a residential area. As such, the proposed development is contrary to Local Plan Policy TC1 and paragraph 87 of the NPPF in that it does not support the vitality or viability of the borough centres.
2. The proposed use represents a commercial use in an existing residential outbuilding in what is an entirely residential area. The use of personal training typically generates an increased level of noise and general disturbance, in close proximity to neighbouring properties in all directions and no evidence has been presented which indicates that the amenity of neighbouring properties is protected. This is contrary to Local Plan Policies GD1 and POLL1 which seek to protect the amenity of existing and future residents.
3. Highways DC have sought further information from the applicant in relation to various highways and parking impacts of the development such as a parking layout, adequate visibility number of clients, safe pedestrian access to the outbuilding and turning areas within the site. The applicant has supplied such information which did not meet the recommended criteria or level that colleagues in highways expect for such development, with inadequate parking or turning facilities within the site which would allow vehicles to enter and leave in forward gear. The proposal would very likely result in vehicles/clients indiscriminately parked on the street and reversing onto Newark Close which is in close proximity to a corner junction, to detriment of highway safety, contrary to Local Plan Policy T4 and the Council's parking SPD.

Based on the above concerns, the proposed development is in conflict with Local Plan Policies TC1, GD1, POLL1, T4 and the Council's SPD for Parking is recommended for refusal.

## **Recommendation**

### **Refuse**