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**2021/0199**

Mrs Jennings

Change of use of integral garage to Salon (retrospective)

7 Longwall Close, Mapplewell, Barnsley, S75 6NY

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### **Site Location and Description**

Longwall Close is a quiet residential cul-de-sac located within a new housing development off Carr Green Lane, linking Barugh Green and Mapplewell.

The property subject to this application is a modern detached red brick dwelling with a two storey forward projection and a driveway located to the front of the property.

### **Relevant History**

2021/0242 - 11 Longwall Close, Mapplewell, Barnsley, S75 6NY - Change of use of part of house (garage) to beauty room (retrospective) - under consideration

### **Proposed Development**

The applicant seeks permission for the change of use of the existing integral garage to be used as a salon by the occupant of the property. The salon will be open Tuesday/Thursday/Friday 9-3 and Saturdays 9-2, with one full time employee.

The external alterations proposed include the replacement of the existing garage door with a window of similar proportions to the existing windows.

### **Policy Context**

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making.

The new Local Plan was adopted at the full Council meeting held 3rd January 2019 after it was found to be sound by the appointed Planning Inspector following the examination process. This means that it now takes on full weight for decision making process in planning law terms as the development plan for the Borough, superseding the remaining saved policies from the Unitary Development Plan (adopted in the year 2000) and the Core Strategy (adopted in 2011).

### Local Plan

The site is allocated as Urban Fabric within the Local Plan Proposals Maps and therefore the following policies are relevant:

#### **Policy 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)

Barnsley Town Centre is the dominant town centre in the borough. To ensure it continues to fulfil its sub regional role the majority of new retail and town centre development will be directed to Barnsley Town Centre.

The District Centres have an important role serving localised catchments and meeting more local needs. To ensure they fulfil this role and continue to complement and support the role of Barnsley Town Centre new retail and town centre development will also be directed to the District Centres.

The Local Centres serve smaller catchments and development here will be expected to meet the needs of the local area and not adversely impact on the vitality or viability of other nearby centres.

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.

### **Policy GD1 General Development**

Proposals for development will be approved if:

- There will be no significant adverse effect on the living conditions and residential amenity of existing and future residents;
- They are compatible with neighbouring land and will not significantly prejudice the current or future use of the neighbouring land;
- They will not adversely affect the potential development of a wider area of land which could otherwise be available for development and safeguards access to adjacent land;
- They include landscaping to provide a high quality setting for buildings, incorporating existing landscape features and ensuring that plant species and the way they are planted, hard surfaces, boundary treatments and other features appropriately reflect, protect and improve the character of the local landscape;
- Any adverse impact on the environment, natural resources, waste and pollution is minimised and mitigated;
- Adequate access and internal road layouts are provided to allow the complete development of the entire site for residential purposes, and to provide appropriate vehicular and pedestrian links throughout the site and into adjacent areas;
- Any drains, culverts and other surface water bodies that may cross the site are considered;
- Appropriate landscaped boundaries are provided where sites are adjacent to open countryside;
- Any pylons are considered in the layout; and
- Existing trees that are to remain on site are considered in the layout in order to avoid overshadowing.

### **Policy 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.

### **Policy D1 High Quality Design and Place Making**

Design Principles:

Development is expected to be of high quality design and will be expected to respect, take advantage of and reinforce the distinctive, local character and features of Barnsley, including:

- Landscape character, topography, green infrastructure assets, important habitats, woodlands and other natural features;
- Views and vistas to key buildings, landmarks, skylines and gateways; and
- Heritage and townscape character including the scale, layout, building styles and materials of the built form in the locality.

Through its layout and design development should:

- Contribute to place making and be of high quality, that contributes to a healthy, safe and sustainable environment;
- Complement and enhance the character and setting of distinctive places, including Barnsley Town Centre, Penistone, rural villages and Conservation Areas;
- Help to transform the character of physical environments that have become run down and are lacking in distinctiveness;
- Provide an accessible and inclusive environment for the users of individual buildings and surrounding spaces;
- Provide clear and obvious connections to the surrounding street and pedestrian network;
- Ensure ease of movement and legibility for all users, ensure overlooking of streets, spaces and pedestrian routes through the arrangement and orientation of buildings and the location of entrances;
- Promote safe, secure environments and access routes with priority for pedestrians and cyclists;
- Create clear distinctions between public and private spaces;
- Display architectural quality and express proposed uses through its composition, scale, form, proportions and arrangement of materials, colours and details;
- Make the best use of high quality materials;
- Include a comprehensive and high quality scheme for hard and soft landscaping; and
- Provide high quality public realm.

In terms of place making development should make a positive contribution to achieving qualities of a successful place such as character, legibility, permeability and vitality.

### **Policy SD1 Presumption in favour of Sustainable Development**

When considering development proposals we will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. We will work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

### NPPF

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraph 86 of the NPPF states that 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.

When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre.

Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Supplementary Planning Documents (SPD):

Parking – sets out parking standards that will be applied to all new development.

### **Consultations**

Highways DC – No comments received.

Pollution Control – No comments received.

Ward Councillors – Cllr S Hunt – impact on neighbours and parking.

### **Representations**

Four letters of objection have been received from a surrounding property which raises the following concerns:

- Increased traffic.
- Highway safety.
- Inadequate parking provision.
- Restrictive covenants.
- No limits if planning permission is granted.

### **Assessment**

#### Principle of development

The proposal lies within urban fabric (no specific allocation) on the Local Plan Proposals Map, where development may be considered acceptable where, there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents and where they are compatible with neighbouring land and will not prejudice the current or future use of land.

Where development is proposed for a town centre use (as defined by the NPPF) and located outside of the town centre a sequential test will be required to ensure the maintenance and enhancement of the vitality and viability of the town centre.

No sequential test has been submitted as part of the application to demonstrate that there are no preferential sites located within a centre location. The proposal therefore fails to comply with Paragraph 86 of the NPPF and Local Plan Policy TC1.

The site is outside mapplewell district centre which contains a number of small service uses. The proposed use of part of the existing dwelling as a salon would be in competition with similar uses in the centre and would therefore impact on the vitality and viability of the centres as there may be a diversion of trade from existing retailers in the district centre to this salon.

Had a sequential test been submitted which justifies the proposed use in an out of centre location, it is considered that there would still be an impact on residential amenity as outlined below.

## Residential Amenity

The applicant seeks permission to convert the existing integral garage to a salon; it has not been specified what type of salon is proposed.

Policy GD1 General Development is applied to all development and will be the starting point for making decisions on all proposals including those shown on the policies map as Urban Fabric. Policy GD1 states that proposals for development will be approved if amongst others; there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents.

The authorities aim is not to suppress development but to ensure that the living conditions and residential amenity of people is protected. Section 6.9 of the Local Plan page 29 states that the authority will assess the impact on living conditions and residential amenity in relation to:

- Noise, smell, dust, vibration, light, air, surface water, ground water, or other pollution and disturbance from any proposed activity, including traffic related noise and the coming and goings of visitors to premises particularly when late evening activity is involved.

The effect on amenity afforded to neighbouring properties from businesses operating in residential areas has become more prominent and the LPA has taken a stronger stance in assessing these types of commercial activity.

Two appeals (2019/0712 and 2020/0573) have recently been dismissed due to the impact on residential amenity. It is noted that 2019/0712 was for a larger venue and level of activity and that could accommodate more people, however, in both, the planning inspectorate agreed with the Council's view that a commercial use in a predominantly residential area would be harmful to neighbouring properties in terms of noise and disturbance.

Whilst the use of the driveway by customers is not dissimilar to the domestic use of the drive, the development would still generate a greater number of vehicular movements and noise associated with manoeuvring and the opening and shutting of car doors throughout the day. It is the council's opinion this is not acceptable as the residents of adjacent dwellings would expect to enjoy an amenity level expected within a residential area and not commercial surroundings.

Although no objections have been raised by Regulatory Services in regard to noise, these are balanced against the LPA assessment of the proposed developments impact. Regulatory services have a higher threshold in terms of noise (i.e., will the proposal cause a statutory nuisance), whilst they might not object, that does not mean that there will not be any adverse impact from the commercial activity being carried out.

The proposed use would amount to a level of activity that would cause noise and disturbance to neighbouring properties and is considered to have an impact on the amenity of surrounding residents in a residential rather than commercial area.

This would be particularly prevalent under the current circumstances with more people at home and during what would be normal working hours and so the LPA must take into consideration that residents' amenity will be affected by development proposals for significantly longer periods of time.

Whilst it is noted that a similar application is currently pending within the same residential street and that each application is based on its own merits; the granting of this planning permission could set precedence for future applications which could lead to a proliferation of non-residential uses in a residential area.

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.

### Highway Safety

Highways Development Control have made no comments on the application; the property benefits from off road parking in the form of a driveway to the front of the property, which can comfortably accommodate 2no vehicles, in addition to the garage; therefore, the required number of parking spaces for a dwelling of this size are retained. Whilst parking on Longwall Close may be at a premium any visiting clients could effectively block the drive of the property given that there are no on street parking restrictions.

Whilst it is accepted that the proposed development would increase traffic movements the planning authority cannot control the speed at which vehicles travel along the highway which is a matter for the police.

It is therefore considered that the proposal would not have a detrimental impact on highway safety.

### Visual Amenity

The conversion of the integral garage, by the removal of the garage door and the inclusion of a window of similar proportions to the existing fenestration would not be out of character with the dwelling or the wider street.

However, this does not warrant the approval of a scheme which would have a detrimental impact on the residential amenity.

### Other Issues

Restrictive covenants are not materials planning considerations; the granting of planning permission does not infer any other consent is given and it is responsibility of the homeowner to ensure all relevant permissions are in place.

### Conclusion

Despite the use being considered acceptable in terms of its impact on highway safety and visual amenity, the fact remains that the proposal, to use the domestic integral garage as a beauty salon within a residential rather than commercial area, contrary to Local Plan Policy TC1 and would generate visitor trips throughout the day and into the evening. As a result, the proposed change of use from a private domestic garage to commercial salon fails to comply with Local Plan Policies GD1 and Poll1 in that it would have an unduly harmful impact on the amenity of neighbouring and nearby residents by way of increased noise and disturbance.

### **Recommendation**

#### **Refuse**

The proposed change of use fails to comply with Local Plan Policy TC1 and paragraph 86 of the NPPF in that the proposal represents a town centre use which is located out of existing town and district centres. No sequential test has been submitted which demonstrates that there are no preferential sites located within a centre location and as such the proposal impact on the vitality and viability of the centres as there may be a diversion of trade from existing retailers in the district centre to this salon.

The proposed change of use from a domestic garage to a salon fails to comply with Local Plan Policy GD1 in that it would have an unduly harmful impact on the amenity of the residents of adjacent dwellings by way of increased noise and disturbance.