

Officer Report On Planning Application: 18/00123/COU

Proposal:	Alterations, the erection of side extension and change of use of garage to catering kitchen.
Site Address:	Pippins Cary Road North Cadbury
Parish:	North Cadbury
CARY Ward (SSDC Member)	Cllr Nick Weeks Cllr Henry Hobhouse
Recommending Case Officer:	Jeremy Guise Tel: 01935 462645 Email: jeremy.guise@southsomerset.gov.uk
Target date:	12th March 2018
Applicant:	Ms Conway
Agent: (no agent if blank)	Mr Stefan Pitman SPASE Ltd Engine Room Athelhampton House Athelhampton Dorchester, Dorset DT2 7LG
Application Type:	Other Change Of Use

REASON FOR REFERRAL TO COMMITTEE

This application has been referred to East Area Planning Committee by the Ward Member with the agreement of the Vice Chair to facilitate further consideration of the impact of delivery and cooking odour.

SITE DESCRIPTION AND PROPOSAL



premises, without significant development.

The catering use will be private in the majority in so far as only the applicant will work in the kitchen facility and will not offer access to visitors. The applicant sources local produce and collects these, rather than relying on deliveries. Therefore no increased vehicular traffic is required.

Since submission the applicant has been asked to supply for further information. In response, agent has provided a further statement covering: residential amenity: employees: working hours; noise, odour and waste; and highways. Relevant sections state:-

Residential Amenity - The residential amenity of Pippins will not be jeopardised. This is the home of the applicant and the catering use of the present garage will be restricted to this area only. We do not see there to be any impact on the amenity of the property, which will function in a similar manor to the present.

To help support this application in light of comments made by the Planning Officer, the applicant would accept a condition be attached to the approval to make the use personal and exclusive to the applicant / Dorset Delights. This would help to clarify that the residential amenity will not be affected.

Employees - No employees will be working on site, except for the business owner, who resides in the property. Staff is employed to work at functions only. Therefore no impact will be made on the residential amenity.

The Planning Officer's questioning of the signage proposed given the lack of staff, deliveries and customers visiting the site, is simply answered to provide some form of business promotion. The signage is considered appropriate in scale, size and design for the area; however, it offers the ability for passers-by to acknowledge the company.

Working hours- The core working hours are between 6.00am- 2.00pm Working days will be Monday to Saturday, however the building will not be used every day and will vary on seasonable businesses it should be understood. There will need to be some flexibility in this given food regulations in the preparation of food within a certain time service

The impact of the use is considered minimal and not too dissimilar to what might be expected from a residential kitchen use, for reasons confirmed below.

Noise, Odour and waste - The type of food prepared by the business is not too dissimilar to those prepared within a residential kitchen. The food prepared does not require the use of more commercial frying or aromatic spices which would harm the odour and noise within a residential amenity such as this. The catering equipment includes the provision of a single oven and extract fan, together with fridge freezers, all of which are domestic grade as would be found in a domestic kitchen. The applicant confirms that these appliances reflect the fact that the type and intensity of food prepared is not too dissimilar to domestic purposes and certainly not equivalent to a large commercial catering facility that one would expect to find on a light industrial estate. This is further reflected by the lack of staff on site.

Likewise waste production on site is also minimal and will make use of existing boarded areas to the gable of the dwelling house . A small wheelie bin will be sufficient for the business needs.

Highway - the change of use of the garage is purely to provide a food preparation area for the applicant to take off site to functions. The applicants sources all ingredients off site, as one would in undertaking personal; shopping. Food is prepared and then loaded into the applicant's vehicle for transportation to the function.

The property offers parking for 3-4 cars at present and the garage is not used for car parking given the narrow size. No impact on the infrastructure will be made where no additional vehicles are required by the use.

HISTORY

None (there is a small handwritten sign by the door to the house indicating 'Dorset Delights', the name of the business)

POLICY

Relevant Development Plan Documents

Policies of the South Somerset Local Plan (2006-2028):

Policy SS2, Development in Rural Settlements,

Policy EQ2, General Development,

Policy EQ7, Pollution Control,

Policy TA5: Transport Impact of New Development

Policy TA6 Parking Standards are relevant

The NPPF:

Chapter 1 Building a strong competitive economy

Chapter 3 Supporting a prosperous rural economy

Decision Taking Section

Other relevant policies:

Somerset County Council Parking Strategy

CONSULTATIONS

North Cadbury and Yarlington Parish Council - Recommends approval

The PC had some concerns over such issues as traffic movements on a busy road, rubbish/food disposal, river bank erosion (a particular concern also of a neighbour) and air venting. However, there was a lengthy discussion on these concerns and the Applicant responded openly and frankly. On the matter of advertising on front elevation of the garage, the Applicant agreed to drop the requirement, recognising that the advertising on the company vehicle would suffice.

The PC was not unanimous and took its decision on the assumption that the concerned Council Departments would only support the proposal if, particularly the issues of environmental health and bank erosion, were satisfied.

SSDC Highways Consultant - The DAS states that no employees will operate from the site and that no deliveries would be made. It would be useful to understand from the planning officer how this can be reasonably conditioned and enforced. Presumably there would be some food waste - how would it be collected, using the domestic waste service or by a dedicated commercial collection? The conversion of the garage would result in the loss of onsite planning for the residential property. While a narrative has been provided on this issue a plan should be submitted demonstrating how an appropriate level of parking in line with the optimum set out in the Somerset Parking Strategy can be retained / provided without conflict with access to the proposed catering kitchen.

Comments made 14/03/2018, after additional information provided.

I have read the further submission by the agent and reviewed the attached plan. As indicated previously, provided enforceable conditions can be imposed ensuring that the applicant purchases and collects all the food and that no staff are employed on the site, there should be no significant additional traffic generated by the scheme and no requirement to provide additional parking. On that basis, I do not believe a highways objection would be reasonable. I will leave it to you as the planning officer to determine whether or not appropriate/enforceable conditions can be imposed in this respect.

The removal of commercial waste on a fortnightly basis, while generating additional traffic, would not be sufficiently frequent enough to raise any significant concerns.

SSDC Environmental Protection Unit - I have looked at the latest information supplied by the applicant. However, I am still of the opinion that allowing a commercial catering business to operate in this residential area will have a detrimental effect on the amenity of nearby residents. I note the applicant has supplied details of a domestic extraction unit, I am still concerned about the potential for any extraction system to cause a statutory nuisance, particularly, in a residential area with a low background noise level. I also note that the hours of working are from 6.00am and I would consider this to also have the potential to cause disturbance to neighbours whatever the frequency of working days. I am therefore still of the opinion that this application should be refused to protect the amenity of the nearby residential properties.

However, should the application be minded to be approved, I would recommend the following be conditioned if possible;

- No deliveries at any time
- No hot food to be produced on the premises
- Hours of operation to be limited to 8:00 - 18:00

REPRESENTATIONS

Nine letters of representation (LOR's) have been received. All object to proposal. Their grounds of objection can be summarised as follows:-

- Neighbouring properties are all residential. Change of use of the garage to a catering business is detrimental. It will devalue neighbouring properties.
- Industrial disruption possibly 7 days a week would create severe disruption to peace and quiet.
- Will create traffic problems: servicing and parking on a complete blind spot. Will be a hazard for pedestrians and children using the nearby school
- Will displace existing parking on site resulting in vehicles reversing onto the road at a point where it floods during wet weather
- Will generate cooking smells, noise and vehicles day and night
- Will add to existing drainage and sewage problems
- Questions whether the applicants will pay business rates

CONSIDERATIONS

Principle of development

'Pippins' is a house located in an area which is exclusively residential in character. It is not an industrial estate, or even an area of mixed uses. The proposal goes beyond a use that is ancillary to the authorised dwelling house use and proposes the creation of a separate planning unit - albeit one with a shared access.

The impact of the proposed change of use to a commercial kitchen upon the amenities of residential properties in the area and the impact of parking arrangements upon its character are the main consideration in the assessment of this application. Further, issues are the impact on highway safety; the continuing habitability of 'Pippins' as a residence adjacent to a commercial unit with a shared access and the design and appearance of the proposed extension.

Policies SS2, Development in Rural Settlements, EQ2, General Development, EQ7, Pollution Control, TA5: Transport Impact of New Development
Policy TA6 Parking Standards are relevant

Policy EQ7, Pollution Control is considered to be most relevant to the principle. It states:-
Development that, on its own or cumulatively, would result in air, light, noise, water quality or other

environmental pollution or harm to amenity, health or safety will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals. This may be achieved by the imposition of planning conditions or through a planning obligation.

In their submission the applicant and agent have been keen to emphasise the low key nature of the proposed activities: with no employees working on site (other than the householder) and levels of noise, cooking odour and waste 'not dissimilar to what might be expected from a residential kitchen.'

The credibility of these claims has been questioned by objectors who are concerned about noise, cooking odours, waste disposal, parking provision and deliveries. They highlight their experience with the use to date and the 'cramped' nature of the driveway. More than one of objector has referenced the existing disturbance and obstruction caused by delivery vehicles parking on the pavement when visiting the property since the informal use of the property as a catering business started.

It is considered likely that the intensity of activity arising from the use of an extended garage as a separate commercial kitchen would be significantly more than that associated with domestic scale use. The quantities of food and packaging delivered and distributed from the premises, levels of waste generated and hours of operation would all be greater than would be expected from a dwelling house. In particular it is very unlikely that a domestic use would regularly commence at 6am.

Some consideration has been given as to whether planning permission can be granted subject to a tight conditional regime restricting hours of operation, employees present, and deliveries. Both the Local Plan and the NPPF (Chapters 1 Building a strong competitive economy' and Chapter 3 supporting a prosperous rural economy) have general policies that are supportive of economic uses.

However, planning conditions can't be used to change the nature of the application

The proposed early starts, and statements received from residents about delivery vehicles and existing parking requirements exceeding the capacity of the site, indicate the difficulties involved in controlling the use with conditions. Any conditional regime would have to satisfy the tests set out in para 206 of the NPPF.

Some issues: such as the applicant's 'core hours' requirement for regular 6am starts, the nature of a kitchen being the 'cooking' of food are fundamental to the nature of the proposed business model and can't really be altered by conditions. If a 6am start is considered to be potentially disruptive to the residential neighbourhood, as it believed it would be, then there really isn't a condition to overcome this concern. Similarly a condition that prevented hot food being prepared in a kitchen is unenforceable..

Other issues, such as ensuring that only the householder works at the premises (i.e. it does not attract other employees and their vehicles); that deliveries, distribution and waste collection are all permanently kept at a very low level commensurate with a residential area or that the cooking processes does not involve odours or noise from extractors would be difficult to frame precisely enough to be enforceable, whilst also being reasonable enough not to interfere with the running of the business, especially as it evolves over time. The applicant's statement acknowledges the need for flexibility in relation to working hours.

Overall, this leads to the conclusion that the impact of the proposed use upon the amenities of neighbouring properties cannot be adequately safeguarded by conditions and that the site is not an appropriate location for the proposed use.

Visual amenity

The proposed extension to the garage is in keeping with the existing building and the main house. Providing matching materials were used it is considered that the visual impact of the development upon the property and wider character of the area is acceptable. In the event that planning permission were

approved, the applicant would be required to satisfy Building Regulations in relation to ground stability, given the proximity of the river Cam.

Highways considerations

The transport and parking implications of the proposed development fall to be considered, in the first instance, against Policy TA5 Transport Impact of New Development and TA6 Parking Standards of the adopted South Somerset Local Plan.

In addition to providing parking and servicing for the proposed 41sqm of catering business the proposal will also need to demonstrate that adequate parking is retained for the residential use of 'Pippins'.

The most relevant parts of Policy TA5 are iii and vi. They state:-

All new development shall be required to address its own transport implications and shall be designed to maximise the potential for sustainable transport through:

ii. Ensuring that the expected nature and volume of traffic and parked vehicles generated by the development would not have a detrimental impact on the character or amenity of the area and would not compromise the safety and/or function of the local or strategic road networks in terms of both volume and type of traffic generated

And

vi. Requiring car parking and vehicle servicing at levels appropriate to the development and its location, in accordance with the approved /adopted standards identified in Policy TA6

The site parking plan (ref. PL-1198-104) shows three standards sized (4.8x2.8m) residential parking spaces retained for 'Pippins' and unrestricted access to the converted garage. The provision of three parking spaces is considered sufficient for a house of this size in this location. (Zone B, mid population level, of the Somerset County Council Parking Strategy). The converted garage provides 41sqm of floor space. The parking standard requirement is for one space per 40sqm of floor space. There is sufficient space in front of the garage to park a vehicle, two if tandem arrangements are accepted. Thus, the overall amount of car parking space provided on site satisfies Policies TA5 and TA6 of the adopted plan. The complication is that if all, or most, of the parking spaces are in use, there is little manoeuvring space available on site to enable vehicles to enter and leave the site in forward gear. This leads to vehicles reversing into the site, or more likely, reversing out onto the highway. Because such manoeuvres are not easily accomplished, particularly for delivery vans, the attraction of parking in the road, especially on the wide section of pavement in front, whilst making a delivery or short visit, is obvious.

Parking spaces that are difficult to use lead to parking spilling out onto the highway would have a detrimental impact upon the character and amenity of the area and be contrary to policy TA5 (iii).

SSDC Highways Consultant does not consider an objection on highways ground to be reasonable. But this view is predicated on the basis that the applicant's claims about deliveries and non-employment of staff are correct and, crucially, can be controlled in the future through enforceable conditions.

Paragraph 203 'Planning conditions and obligations' of the NPPF advises Local Planning Authorities to consider whether otherwise unacceptable development could be made acceptable through use of conditions. Certainly conditions can be drafted that seek to ensure that 'the applicant purchases and collects all foods and that no staff are employed on the site'. But whether such conditions would be reasonable and enforceable in the context of granting planning permission for an established business to set up in this location is doubtful. The Dorset Delights business already has seven employees and claims that it is serviced without the use of delivery vans are credibly questioned by neighbours who cite direct experience with delivery vans associated with the business, parking on the wide section of pavement in front of 'Pippins' or vehicles reversing out onto the highway.

Access and parking arrangements are considered to be adequate for the existing domestic use at 'Pippins'. But if shared with a separate commercial unit they are likely to prove to be too cramped and

inadequate, leading to displacement of parking associated with the use onto the surrounding highway to the detriment of the character of the area. Conditions can be imposed to try and control deliveries and parking, but they are likely to be unenforceable. Furthermore, in the context of an approved commercial unit, it is questionable whether imposing such a strict conditional regime would be reasonable in the first place.

RECOMMENDATION

Refuse permission for the following reasons:

SUBJECT TO THE FOLLOWING:

01. The proposed use of the extended garage at 'Pippins' as a commercial kitchen would adversely affect the amenities of neighbouring residential property. The levels of noise and disturbance likely to be generated by the use are incompatible with the character of this part of North Cadbury as a residential area. As such the proposal is contrary to policies SS2, Development in Rural Settlements, EQ2, General Development, and policy EQ7, Pollution Control, of the adopted South Somerset Local Plan which requires development to: be commensurate with the character of the settlement; protect the residential amenity of neighbouring properties and only allow development which generates noise and disturbance if it can be adequately mitigated.
02. The proposed use of the extended garage at 'Pippins' as a commercial kitchen, a separate unit, is likely to result in additional parking on the highway around the site to the detriment to the character and amenity of the area. As such the proposal is contrary to Policy TA5 (iii) of the Transport Impact of New Development, that seeks to ensure that parked vehicles generated by development do not have a detrimental impact on the character and amenity of the area.

Informatives:

01. This decision is based upon the following submitted plans:
S-1198-101 & PL-1198-101 received 3rd January 2018, PL-1198-103A received 15th January 23018 and PL-1198-104 received 11th March 2018
02. In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by;
 - offering a pre-application advice service, and
 - as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions

In this case there were no minor or obvious solutions to overcome the significant concerns caused by the proposals.
