

Application Ref: 12/01922/FUL

Proposal: Change of use of remaining part of residential garage to business use - Retrospective

Site: R And P Meats Ltd, 55 Cherry Orton Road, Orton Waterville, Peterborough

Applicant: R And P Meats Ltd

Agent: Mr M Watson

Referred by: Head of Planning Transport and Engineering Services

Reason: For reasons of fairness and transparency

Site visit: 29.01.2013

Case officer: Mr D Jolley

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Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site and surroundings

The application site is located on the southern edge of the Orton Waterville Conservation Area. The site consists of a dwelling to the front of the site that has been rendered and remodelled over the years and is no longer of historic character. Along the left hand side of the site and to the rear is the meat wholesale premises that has been in operation since the mid 1950's. Along the left hand side of the site these are relatively narrow, single storey brick built outbuildings that are in commercial use. To the rear of the site is a larger modern structure which is in mixed use of commercial, incorporating residential garaging. To the centre of the site there is a garden space and gravel driveway that is used for the parking and turning of the 4 commercial vehicles stored on site.

Proposal

Permission is sought for the change of use of remaining part of residential garage to business use - Retrospective

2 Planning History

Reference	Proposal	Decision	Date
11/00340/FUL	Proposed canopy to existing building - retrospective	Application Permitted	19/04/2011
11/00879/FUL	Change of use of existing residential store to store room for business use (part-retrospective), removal of existing mono-pitched roof, and replace with flat roof and covered access to store room, change use of part of existing garage to upgraded toilets	Application Permitted	29/07/2011
P0601/74	Change of use from private garage to garage and storage of refrigerators	Application Refused	14/02/1975

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Peterborough Core Strategy DPD (2011)

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

CS17 - The Historic Environment

Development should protect, conserve and enhance the historic environment including non scheduled nationally important features and buildings of local importance.

Peterborough Planning Policies DPD (2012)

PP02 - Design Quality

Permission will only be granted for development which makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change; and is designed for longevity.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

4 Consultations/Representations

Parish Council (21.01.13)

The Parish Council is objecting on the grounds as on previous application 11/00879/FUL:

1. Since the site forms part of the designated Conservation Area of Orton Waterville and is allocated primarily for residential purposes, any consolidation of the existing further industrial uses undertaken on the site would be seriously detrimental to the residential amenities of the area generally, and of nearby households in particular.
2. An intensification of the commercial use of the site would have further impact on the traffic flow to the premises and be detrimental to the residential amenity of the area.

Conservation Officer (23.01.13)

An intensification of use of the site would neither preserve nor enhance the character or appearance of the conservation and if it is considered that this would likely arise from approving the retrospective application then the application should be refused.

Transport and Engineering Services (31.01.13)

No objection

FAO Emma Doran Pollution Team (30.01.13)

Any further intensification of the use may therefore result in additional disturbance to existing complainants, for whom there is no satisfactory legislative remedy where the operator conducts his business using the Best Practicable Means to control noise nuisance. Consequently further intensification of the use of the site should be avoided.

The operator comments that:

The installation of a fridge and condensing unit to store the above meats etc. The above is a requirement by the Food Standard Agency to increase the fridge storing facilities due to the existing fridge storage capacity being inadequate, overloaded and therefore inefficient

This is probably an indication of an intensification of use.

Should permission be considered for the site, further evaluation of noise from the condensing unit will be required.

Councillor J Stokes (21.01.13)

If you are minding of recommending approval for this application then I would like to call it in to Committee

Landscape Officer (22.01.13)

No objections

Local Residents/Interested Parties

Initial consultations: 10

Total number of responses: 13

Total number of objections: 13

Total number in support: 0

A single letter of objection signed by 14 Signatories was received raising the following points;

The last four planning applications by this business have been retrospective and this current one is the third in 22 months. (This is evidence of the creeping/incremental expansion of the business.)

The business' planning application includes some inaccuracies which are corrected below :

- (1) In section 10, (Vehicle Parking), it is claimed that the business has 4 vans, whereas it has 5.
- (2) In section 14, (Existing Use), the application omits to mention that it also supplies eggs as well as fresh meat, cooked meat, bacon and cheese.
- (3) In section 20, (Hours of Opening), the business claims that it only operates from Monday to Friday between 7.00am and 5.00pm. Referring to the start time, cardboard packaging collection in the yard occurs as early as pre-5.00am on some days; one of the business' vans arrives at 5.30am most mornings and the workers arrive at 6.00/6.30 on 3 working days of each week. (On Friday 11 January'13, the workers were arriving at 5.45am.) During the summer, the outside catering activities of the business, eg barbeques/hog roasts, usually take place on a Saturday and the very noisy and disturbing unloading and clearing up activities in the yard have continued as late as 1.30am on the Sunday morning.

Summary of relevant background information:

- (1) During the period from 1957 to 1977, when the business was smaller than it is now, on 8 separate occasions the Council refused planning permission because it considered that the proposals would damage the residential amenity of nearby residents. The planning authority summed up the situation by saying "It has become clear that the original grant of consent in 1957 was, to say the least, unfortunate. It introduced an industrial use into an area ill-suited for such activities and has subsequently been the cause of much complaint and objection. The site is now part of the designated conservation area and is within a predominantly residential neighbourhood. The introduction of a new non-conforming use involving additional traffic and activity would cause serious damage to the amenity of the area in general and nearby property in particular." This is even more relevant today.
- (2) In the mid-90's, residents petitioned the Council regarding what planning officers described as demonstrable harm to the residential amenity such that it justified discontinuance action. The then Policy Committee acknowledged "the exceptional and severe nature of the problems." At that time, there were 5 or 6 employees: since then, the workforce has increased to 17, there is at least a 10-fold increase in van capacity and there is a larger range of goods supplied.

(3) The 1978 Orton Waterville Conservation Report, which was adopted by the Council as a planning guideline, recommended that any further expansion which might generate more traffic or disturbance to neighbouring residents should be resisted. It also stated that the Council will take action to restrict non-conforming uses to their present scale and extension would normally be refused.

(4) By virtue of the narrowness of the road and business' entrance, and the small, congested yard, almost all of the lorries serving the business unload on the road outside No 53. There are up to 4 each working day. In addition to this, occasionally, a large customer van is loaded up outside No 53 using the fork lift truck.

(5) In the past few years, apart from telephone calls, 6 letters have been sent to the Council complaining about the business' practices and their harmful impact on nearby residents.

In section 2 of the business' "Design and Access Statement.." it openly admits that its existing fridge storage capacity is inadequate. The obvious conclusion is that the business has outgrown its existing facilities and this additional refrigerator represents an expansion of the business.

- Noise pollution when lorries are unloading on the road outside No 53. Lorries often park on the pavement so close to the cottage that pedestrians cannot use it.

- Diesel exhaust fumes in homes when lorry refrigerators are left running during unloading and parking on the road.

- Early morning (pre 7.00am) and, at some weekends, late night (post 11.00pm) noise pollution from the business' yard. Sleeping in the back bedroom of No 57 is almost impossible when, as early as 6.00am, boxes are being dumped into vans and their doors slammed.

- Blocking of light from living room of No 53 when a lorry is parked just a couple metres away.

 - Blocking of driveways when Lorries serving the business are parked on the road.

 - Blocking of the road itself by unloading Lorries. (Some examples are shown in the photographs)

When refuse Lorries have been prevented from proceeding past the business, either residents' bins have not been emptied or the wheelie bins have been dragged along the road to the refuse lorry.

- Damage to the listed cottage at No 53. There have been numerous occasions when the cottage has been damaged by Lorries either entering or leaving the premises. On one occasion, the corner coping stone of the roof was knocked down to the pavement.

In addition to the above, with the business using a fork lift truck on the road to unload Lorries, there are risks to the public which the Council ought to recognise.

Referring to the Council's Development Plan Policies, it follows those criteria

CS16(d), (e), (f) and CS 17 are not and cannot be met. In a similar vein, the photographs demonstrate that the activities of this business clearly fail to preserve or enhance the character or appearance of our conservation area, even though, referring to the Planning Policy Guidance (PPS) 5, the courts have confirmed that such criteria should be given a high priority. The business has a history of expansion and in recent years this has accelerated. The current planning proposal is seen as part of this expansion.

In conclusion, it is the residents' opinion that this planning application for yet further expansion of the business should be rejected because it seriously conflicts with the Council's planning policies and, with its totally inadequate unloading facilities, small, congested yard and close proximity to residential property, the business already unacceptably damages the residential amenity of nearby residents

5 Assessment of the planning issues

The main consideration is:

Do the proposals represent an intensification of the use of the site?

The site has a history dating back to the 1950's. As residents have stated in their representation the Council considered but did not take discontinuance action in the mid 1990's when it is claimed that the operation was smaller scale. Since then local residents have claimed that the business has

expanded. During the 1970's a number of applications regarding the incremental expansion of the site were refused by the Local Planning Authority. It would appear that application number P0601/74 refused the change of use of part of the residential garage to garage and storage of refrigerators, though it is difficult to tell from the remaining records whether this is the same garage that is proposed for conversion now. Recently two retrospective application permitting incremental expansion of the business have been approved.

With regard to this application the issue is not to establish whether the operation of the business causes issues to local residents, the evidence suggests that it does. The issue to be decided is whether the proposal results in an intensification of the use of the site, as any intensification would be likely to increase the issues experienced by nearby residents.

It is clear from the representations received from local residents, Conservation Officer and from the environmental health department that the operation of the business causes numerous problems to neighbouring residents; mainly noise outside of the agreed hours of operation and damage to property and obstruction by HGV's making deliveries to the site. Some of these problems have been addressed by the Environmental Health Department; others cannot be addressed due to the business operating using best practicable means to avoid neighbour disruption, or issues with HGV's within the public highway. Environmental Health also state that any further intensification of the use may result in additional disturbance to existing complainants, for whom there is no satisfactory legislative remedy where the operator conducts his business using the Best Practicable Means to control noise nuisance. Consequently further intensification of the use of the site should be avoided.

The Local Highways Authority have raised no objection to the proposal, it is assumed that this is because they believe that the any intensification of the site through the installation of the fridges is negligible. However both local residents and the Environmental health team disagree with this viewpoint, with Environmental Health stating that the applicant himself has said that The installation of a fridge and condensing unit is a requirement by the Food Standard Agency to increase the fridge storing facilities due to the existing fridge storage capacity being inadequate, overloaded and therefore inefficient.

The Local Planning Authorities considers that the proposal converts some of the remaining residential floor space within the site into cold storage. This is an increase in commercial floor space and is considered to represent an intensification of the use of the site in the physical sense. Any increase in commercial floorspace may result in more deliveries and dispatches and more moving of product within the site, harming the amenity of neighbours. If this were to occur they would be no satisfactory legislative remedy for local residents.

It must also be considered that the siting of the refrigerator will result in the loss of two residential parking spaces. This could result in more parking and manoeuvring within the public highway, to the detriment of both the character of the area and the amenity of the occupiers of neighbouring dwellings.

For the reasons above it is considered that the proposal will intensify the use of the site and this will have a negative impact upon the character of both the Orton Waterville Conservation Area and upon the amenity of the occupiers of adjacent dwellings through increased operational noise and deliveries. This nuisance could not be controlled through statutory noise nuisance controls.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The Head of Planning, Transport and Engineering Services recommends that planning permission is **REFUSED**

R 1 The siting of the refrigerator will result in the loss of two residential parking spaces and an increase in the commercial floor space and cold storage capacity of the site. This is considered to be an intensification of the operation which could result in more parking and manoeuvring within the public highway and increased numbers of deliveries and noise, to the detriment of both the character of the Orton Waterville Conservation Area and the amenity of the occupiers of neighbouring dwellings. This is contrary to policies CS16 and CS17 of the Peterborough Core Strategy (DPD) 2011 and policies PP3 and PP12 of the Peterborough Planning Policies (DPD) 2012 which state;

CS16 - New development should not result in unacceptable impact upon the amenities of occupiers of nearby properties.

CS17 - The Council will protect, conserve and enhance the historic environment throughout Peterborough. All new development must respect and enhance the local character and distinctiveness of the area in which it would be situated, particularly in areas of high heritage value.

PP3 - Planning permission will not be granted for development which would result in unacceptable noise and disturbance for the occupiers or users of nearby properties.

PP12 - Planning permission for development that has transport implication will only be granted if it would not result in an unacceptable impact on any element of the transportation network.

Copy to Councillors Stokes J, Elsey G A, Allen S