

COMMITTEE REPORT

Date: 13 October 2011 **Ward:** Osbaldwick
Team: Major and **Parish:** Osbaldwick Parish
 Commercial Team Council

Reference: 11/02264/FUL
Application at: 27 Bedale Avenue Osbaldwick York YO10 3NG
For: Change of use from garage (Class C3) to tattoo studio
By: Mr B Singleton
Application Type: Full Application
Target Date: 18 October 2011
Recommendation: Approve

1.0 PROPOSAL

1.1 The application property is an extended two-storey semi-detached house fronting Bedale Road. The side garden adjoins a link road to Wydale Road.

1.2 In the rear garden of the property is a single storey outbuilding incorporating a garage and small room. It is proposed to use the room as a tattoo studio for paid work. The room is approximately 5m x 3m in size and contains a couch, workstation and washing facilities. There is a pedestrian door and window facing towards the house.

1.3 The tattoo studio is intended for the sole use of the applicant who occupies the house. He has a tattoo studio in Walmgate that he intends to retain as his main premises. It is understood that the applicant is hoping to undertake paid tattooing from his home as it will enable him to work more flexibly, particularly in respect to childcare responsibilities.

1.4 The applicant would be seeking to tattoo a maximum of two separate clients a day and only one client would be present at any time. He has stated that that he would not typically be seeking to work all available hours, but would like the option to work between 10.00 - 19.00 Monday - Friday (excluding Bank Holidays). There would be no adverts or signage at the premises and all clients would be required to pre-book an appointment.

1.5 A tattooist shop does not fall within any of the established use classes and is classified in planning terms as "sui generis" (i.e. of its own kind/unique). As such planning permission would be required to convert a shop or office to a tattooist's studio.

1.6 The application is brought to Committee for determination at the request of Councillor Mark Warters because of the high number of objections from neighbours and the unusual nature of the proposal in a wholly residential area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYE10

Working from home

CYGP1

Design

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management - No objections.

Environmental Protection Unit - Do not object to the application and historically have never received complaints in respect to such uses. Do not envisage any equipment associated with the activity causing noise concerns, however, as there is limited knowledge of what problems may occur we would recommend a precautionary approach taken and a temporary consent granted.

3.2 External

Parish Council - support the neighbours' objections to a business use in a residential area.

Neighbours

Objections have been received from 9 residents. The following concerns are raised:

The proposal will set a precedent for other business uses.

Increase in parking and traffic problems - the site is on a corner and on-street parking can create highway safety issues.

Residents do not want to live in a commercial area.

The proposal will devalue residential properties.

The use is not appropriate in a quiet residential location with many elderly people and young families.

Nuisance from noise will occur.

There are empty shops in nearby areas that could be used.

Uses that involve handling needles and relate to blood should not take place in a residential area.

4.0 APPRAISAL

4.1 The key issues in assessing the proposal are:

The impact on the amenity and living conditions of local residents

The impact on the vitality of local shopping centres.

Highway safety.

Visual impact.

Provision of storage for the dwelling house.

4.2 Local Plan policy E10 (Working from Home) states that planning permission will be granted for small business uses within residential curtilages, providing development would not adversely affect the amenity of neighbouring properties or the residential character of the area.

4.3 Planning Policy Statement 4 - Planning for Sustainable Economic Growth sets out the Government's policies for economic development. Policy E2 (K) states that local authorities should facilitate new working practices such as live/work. Policy EC 4.1 relates to town centres. It states that local planning authorities should proactively plan to promote competitive town centre environments and provide consumer choice.

4.4 Planning Policy Guidance 24 - Planning and Noise states that the impact of noise can be a material consideration in the determination of planning applications. The planning system has the task of guiding development to the most appropriate locations. It is important that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses.

THE IMPACT ON THE AMENITY AND LIVING CONDITIONS OF LOCAL RESIDENTS

4.5 Proposals to work from home are not unacceptable providing the practices are compatible with the residential character of the area. It is not considered that the proposal, subject to the restrictions put forward by the applicant, would create levels of noise, activity or traffic movement that are out of character with a typical house.

There would be no significant deliveries of goods or products to or from the house relating to the business and a maximum of two people would visit between Monday to Friday (10.00 a.m. - 7.00 p.m.) on any given day, with only one client at any one time. The noise generated from the tattooing equipment would be low and would not be out of place in a residential area.

4.6 In assessing the acceptability of the proposal regard is given to noise levels that can come from a typical house. It is the case that many low key businesses and services operating from a private dwelling will be barely noticeable in comparison to the activity that can be generated by a small family. It may be the case that the applicant could undertake some paid tattooing work from his home without the need to seek planning permission for a change of use. The key test for whether planning permission is required to work from home relates to whether the property is still primarily a private residence and whether noise and disturbance to nearby residents exceeds or varies from that which could result from 'typical' household activity. Because of the low number of visitors that would visit the application site on a daily basis it is not considered that disturbance resulting from traffic movements and general comings and goings of customers to and from the site are valid reasons to refuse this application.

THE IMPACT ON THE VITALITY OF LOCAL SHOPPING CENTRES

4.7 Planning policies exist that seek to protect the viability of local and central shopping streets. It is the case that when looking at viability the wording in the Local Plan generally relates to mainstream retail uses rather than "specialist" uses such as tattooists. It is the case that tattooists can contribute to the vibrancy of shopping/mixed use centres, however, they would not be typically seen as a vital shop or service. It is understood that the applicant intends to retain his tattoo shop in Walmgate and that his home space would only be for more detailed specialised work that would typically take several hours to complete. In character, it is not a type of use that would result in employment and activity in the way that a tattoo studio with a separate reception, adverts and a higher turnover of customers would tend to generate

HIGHWAY SAFETY

4.8 The employee in the business will be living in the house. If a maximum of two people visit by car each day the level of traffic movements will be low. The property has a large hard surfaced front garden with space for several cars to park. It is also likely that a car could park on adjacent streets without causing a hazard to highway safety or inconvenience to neighbours.

VISUAL IMPACT

4.9 The proposal will have no significant impact on the visual appearance of the area. If the application is approved it is considered that it should be conditioned that no signs or adverts are erected advertising the existence of the tattooing business.

PROVISION OF STORAGE FOR THE DWELLING HOUSE

4.10 Adequate off-street car parking remains for the occupants of the property. A store remains in the rear garden which is suitable for cycle storage and other domestic storage needs.

5.0 CONCLUSION

5.1 It is considered, subject to the suggested conditions, that the proposal is a low key use that can take place in an established residential area without causing undue harm to neighbours living conditions. It is recognised that a normal tattoo shop would be inappropriate in such a location, however, the suggested conditions are such that it is not considered that the impact on neighbours would differ materially from an activity that a resident may undertake from their home such as a councillor or tutor - particularly if visitors were limited to two a day and by appointment only.

5.2 It is recognised that the proposal is contentious and that tattooing has historically sometimes had a stigma attached to it. It is not considered however, that these constitute valid planning grounds to refuse the application. It is recommended, however, that because the proposal is fairly unusual it would be reasonable to grant planning permission for a temporary period to ensure that the impact is monitored. If it were found that the proposal was unsuitable in this location a future application could be refused or approved subject to additional conditions.

5.3 It is the officer's view that for the reasons set out in this report that the application should be approved, in the first instance, for a twelve month period.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The use hereby permitted shall be discontinued at or before the date specified in this permission, namely 31 October 2012, unless an extension of the period shall first have been given in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may assess the impact of this use upon the surrounding area.

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawings received by the Local Planning Authority on 22 August 2011.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 This permission shall operate for the benefit of the applicant Mr. B. Singleton only, and only in respect of the premises as at present existing and the use hereby approved shall be terminated at such time as Mr. B. Singleton ceases to occupy the premises.

Reason: The use for which personal permission is hereby granted may not be acceptable other than in respect of use by the person indicated.

4 The use hereby approved shall not take place on site other than between the hours of 1000 and 1900 on Mondays to Fridays. No work shall take place on site on Saturdays, Sundays or Bank Holidays.

Reason: To safeguard the amenities of local residents.

5 Callers to the premises shall be limited to no more than two on any one day and no more than one customer shall be present at any one time.

Reason: To ensure that the level of activity is appropriate for a residential area.

6 Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) Regulations 2007, no signs or adverts relating to the tattooing business shall be displayed on any part of the property known as 27 Bedale Avenue, or its curtilage, that is visible from the street.

Reason: To ensure that the activity is appropriate to a residential area and ensure that the business does not seek to attract passing customers.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

The impact on the amenity and living conditions of local residents;
The impact on the vitality of local shopping centres;
Highway safety;
Visual impact;
Provision of storage for the dwelling house.

As such the proposal complies with Policies E10 and GP1 of the City of York Draft Local Plan and national planning advice contained within Planning Policy Statement 4 and Planning Policy Guidance Note 24.

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