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Planning Development

By Email Only

15th December 2022

Kirklees Council
Planning – Development Control

FAO Tom Hunt

OBJECTION TO PLANNING APPLICATION FOR CHANGE OF USE OF PART OF DWELLING (C3A) FOR ONLINE PHARMACY AT 26 GRIMESCAR MEADOWS, BIRKBY, HUDDERSFIELD, HD2 2DZ

LPA REF: 2022/93615

Dear Sir,

Robert Halstead Chartered Surveyors and Town Planners have been instructed to submit an objection letter to Kirklees Council on behalf of a number of neighbouring properties.

Section 55 (1) of the Town and Country Planning Act 1990 states that *"development," means the carrying out of building, engineering, mining or other operations in, on, over, or under land or the making of any material change in the use of any buildings or other land.'* [1]

Government guidance states that, *'There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.'* [2]

It is our understanding that a number of complaints from local residents have been made to the Council since the business began operating without permission just under three years ago. The Council have finally determined that a change of use has taken place at the property, hence this retrospective application.

These complaints carry material weight in the determination of this retrospective application because the business use at this residential property is clearly having a harmful effect on residential amenity, otherwise it's unlikely these multiple complaints would have been made in the first place.

[1] Emphasis ours
[2] Paragraph 011 – When is permission required?

Given that it is a retrospective application, it is felt that for clarity, this should be included as part of the description, otherwise it is considered to be misleading.

Our clients object to this application as the business operations are having, and will continue to have (if approved), an adverse impact on their residential amenity by way or noise, disturbance and parking. These matters will form the basis of this objection.

Residential Amenity

The applicant's property is located towards the end of a quiet residential cul-de-sac. The road is narrow and there are limited public footways. The properties are situated within close proximity to one another in what is a fairly tight knit design and layout. Front gardens are small, making the front elevations of the dwellings relatively close to the road.

The proposed business results in multiple vehicles coming and going from the property on a daily basis. The applicant's Planning Statement states that there are 3 regular morning and 2 regular afternoon deliveries and a daily Royal Mail Collection. In addition, there are 3 full time employees operating from the premises and a part time delivery driver. This equates to at least 10 vehicles coming and going from the property each day, which is over and above what would be considered normal for a residential property.

Appendix 1 provides a detailed and accurate account of the time, the type of vehicle, and the total number of vehicles coming to the property each day over a two week period (14th to 25th November 2022). This data collected demonstrates that on average 10 or 11 vehicles are travelling to and from the property on a daily basis during the week. The data also shows that, for instance, Royal Mail often visit the property more than once a day. It should be noted that where Royal Mail didn't visit the property on the 24th and 25th November, this was due to them being on strike.

The number and frequency of vehicles coming and going is having a detrimental impact on neighbouring residents by way of noise and disturbance. The noise being omitted from vehicle engines, the slamming of vehicle doors and the conversations between delivery drivers and employees on the street are all increasing noise levels and disturbance to other residents in what is a very quiet residential street, which currently exhibits very limited amounts of background noise. Some delivery drivers are required to make several trips to their vans to unload all of the goods, so the deliveries are rarely that quick either.

We note that objections submitted in connection with this planning application corroborate our clients' evidence with regard to frequency of deliveries. As of today's date (14th December 2022) there have been six objections from local residents already submitted to the Council, which highlights the problematic nature of the proposed development, and the detrimental impact it is having on the residential amenities of these neighbours.

The Application Form also states that the operating hours are 0900 – 1700 Monday to Friday, although the Planning Statement admits that the Royal Mail collection is around 5.45pm and the outgoing deliveries start just after 6pm. The business operations are therefore clearly straying into evening (more unsociable) hours, which adds further harm to residential amenity for other residents. This is again evidenced in Appendix 1 which shows that at least one vehicle a day is turning up at the property after 5pm.

There is also the issue of 'visual disturbance' which is adversely affecting residents. The case *Sage v Secretary of State for Housing, Local Government and Communities [2021] EWHC 2885 (Admin),*

highlights visual disturbance as those factors that '*make residents aware of the extra activity.*' In that case, the change of use related to a gym business run at the claimant's home. Paragraph 61 of the case states the following,

'The comings and goings that arise from at least 4 to 5 clients a day can cause disturbance to neighbours … Any disturbance is exacerbated by the tight knit design of the properties. That too is a reference to the scope for general disturbance caused by the proximity, presence and passage of the clients. It is not confined to what is visible but focuses on the proximity of residents to these comings and goings, and their awareness of what was going on.'

As such, it is not just the direct noise associated with the proposed business operations that is causing harm to neighbouring residents, but also the general disturbance, or visual disturbance, whether always visible or not, for neighbouring residents being constantly aware of the various comings and goings from No. 26.

Local Plan Policy LP24 (Design) states that, *'Proposals should promote good design by ensuring: b. they provide a high standard of amenity for future and neighbouring occupiers.'*

Paragraph 130 f) in the NPPF echoes this by stating that, *'Planning policies and decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.'*

Paragraph 185 in the NPPF also states that, *'Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects on pollution on health, living conditions and the natural environment. In so doing they should: a) avoid noise giving rise to significant adverse impacts on health and the quality of life.'*

The proposed development is having a detrimental impact on the well-being and quality of life for local residents by reason of noise and disturbance as discussed above. The proposals therefore do not accord with Policy LP24 and the NPPF paragraphs above and should in our view be refused on that basis.

<u>Parking and Highway Matters</u>

There is also the issue of parking. The applicant's drive is relatively small and can only accommodate 3 vehicles as a maximum. The road is narrow and there is limited on-street parking spaces along Grimescar Meadows. According to paragraph 1.6 of the Planning Statement, *'All the regular drivers are acutely aware of the importance of considerate parking … Any occasional new drivers are advised on their first visit where to park (non-communal parking area at the top of the drive in front of the hedges) in order to keep the shared driveway with No. 24 clear at all times.'*

However, as the aerial image below shows, there are two vans parked in front of the property when the image was taken, one of which overhangs the shared driveway, with the other van completely blocking the shared driveway. It therefore raises the question as to whether vehicles associated with the business are in fact parking considerately. The image also illustrates that deliveries must sometimes be arriving at the same time. This makes the lack of available parking an even bigger concern.

Paragraph 1.12 of the Planning Statement also claims that *'one employee parks in a communal parking space at the start of Grimescar Meadows, where there are no houses on either side, at the start of Reap Hirst Road.'* The distance between the applicant's property and the far end of Grimescar

Meadows is over 160 metres. It is therefore difficult to comprehend that this employee or anyone else associated with the business would in reality actually park that far away. Moreover, communal parking spaces are approved on residential developments for the purposes of residents and their visitors, not for business use. The issue therefore has the potential to displace genuine residential users.



It is considered that the number and frequency of vehicles coming and going from the property has the potential to create a highway safety hazard. On-street parking reduces visibility for other road users and pedestrians and can also restrict the safe and efficient flow of traffic along the street.

In addition, local residents have become very concerned regarding not just the numbers of delivery vans coming and going along the cul-de-sac, but their excessive speed, dangerous pavement parking, blocking the road sometimes etc. These are all highway safety issues the Council ought to take seriously in the determination of this case, particularly as children play outside on the cul-de-sac and it is quite naturally expected that the cul-de-sac should be of a residential, not of a business, street character.

These factors are all considered to be contrary to Local Plan Policy LP21 (Highways and access).

The Planning Statement acknowledges that the business needs to relocate to another premises where the comings and goings will not cause disturbance to neighbours and where there is adequate parking. This 'temporary' application will apparently allow the applicant time to find a suitable alternative premises. However, our clients feel that because the applicant has been running the business from their property for nearly 3 years already (and they have been aware of complaints through the Council's enforcement team) there has been ample time for the applicant to find a more suitable premises.

Concluding remarks

Given the reasons outlined above, it is considered that the application should be refused because the proposed development is clearly having a harmful impact on the neighbouring residents and highway safety, and the business should not therefore be allowed to continue operating at this address. The proposals are considered contrary to the relevant local and national planning policies for the reasons outlined above.

It is therefore respectfully requested that this application is refused accordingly.

Yours faithfully,

Robert Halstead Chartered Surveyors & Town Planners

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Appendix 1 – Vehicle Numbers/Frequency

Monday 14th November 2022

8-32am Royal Mail
9-23am AAH Pharmacy
10-18am Alliance Healthcare
11-21am White van
1-11pm White Van
2-39pm White Van
2-52pm AAH
3-08pm White Van
4-24pm Royal Mail
5-45pm Royal Mail

Total number of vehicles 11

Tuesday 15th November 2022

9-33am AAH
10-37am UPS
10-57am Alliance Healthcare
12-48pm White Van
1-25pm Royal Mail
1-50pm Van
2-40pm AAH
3-40pm Alliance Healthcare
3-41pm White Van
4-25pm Royal Mail
5-40pm Royal Mail

Total number of vehicles 11

Wednesday 16th November 2022

9-36am AAH
10-31am Alliance Healthcare
11-44am White Van
12-38pm Car
1-25pm White Van
2-33pm AAH
2-43pm White Van
3-19pm Alliance Healthcare
4-31pm Royal Mail
5-44pm Royal Mail

Total number of vehicles 10

Thursday 17th November 2022

9-58am AAH
10-57am Alliance Healthcare
12-36pm White Van
1-50pm Parcelforce
2-45pm AAH
3 30pm White Van
3-30pm Alliance Healthcare
4-12pm Royal Mail
4-13pm White Van
5-38pm Royal Mail

Total number of vehicles 10

Friday 18th November 2022

8-48am UPS
9-23am AAH
9-55am Parcelforce
10-00am Alliance Healthcare
10-31am Royal Mail
12 02pm White Van
2-28pm AAH
3-37pm Alliance Healthcare
4-00pm White Van
4-16pm Royal Mail
4-35pm Car
5-40pm Royal Mail

Total number of vehicles 12

Monday 21st November 2022

8-42am AAH
11-34am Alliance Healthcare
12-10pm Car
12-45pm UPS
2-00pm White Van
2-45pm AAH
3-40pm White Van
4-27pm Alliance Healthcare
4-28pm Royal Mail
5-36pm Royal Mail

Total number of vehicles 10

Tuesday 22nd November 2022

9-46am AAH
10-00am UPC
11-53am White Van
12-50pm White Van
1-00pm Alliance Healthcare
2-55pm AAH
3-03pm Alliance Healthcare
4-20pm Royal Mail
5-45pm Royal Mail
6-20pm White Van

Total number of vehicles 10

Wednesday 23rd November 2022

9-21am AAH
11-36am Alliance Healthcare
12-10pm White Van
12-32pm White Van
2-56pm AAH
4-18pm Alliance Healthcare
4-39pm White Van
5-40pm Royal Mail
6-30pm Car

Total number of vehicles 9

Thursday 24th November 2022

9-26am AAH
11-23am White Van
11-23am Another White Van
11-45am Alliance Healthcare
12- 04pm AAH
12-38pm White Van
12-48pm Dispatch Bay
1-11pm Car
2-17pm White Van
2-24pm AAH
4-23pm Alliance Healthcare
4-53pm White Van

Total number of vans 12

Friday 25th November 2022

9-29am AAH
12-04pm White Van
12-08pm Alliance Healthcare
1-40pm Dispatch Bay
2-42pm AAH
2-53pm UPS
3-34pm White Van
4-50pm Alliance Healthcare
6-42pm Car

Total number of vehicles 9