

APPLICATION NO: 15/01449/COU	OFFICER: Miss Chloe Smart
DATE REGISTERED: 18th August 2015	DATE OF EXPIRY: 13th October 2015
WARD: College	PARISH:
APPLICANT:	Pedlam
AGENT:	n/a
LOCATION:	Former Workshop and Garage to rear of 174 Bath Road, Cheltenham
PROPOSAL:	Change of use from workshop and garages (previously associated with undertakers) to a bicycle workshop (including ancillary cafe and office). No external alterations proposed.

RECOMMENDATION: Permit, subject to conditions



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to a single storey building which is located to the rear of a row of commercial properties which front onto Bath Road. The property is accessed via a narrow passageway which joins the adopted highway at Clare Street. The site lies within the Central Conservation Area.
- 1.2 The application seeks planning permission for a change of use of the property from a workshop which was previously associated with an undertaker (sui generis) and has also been used as an upholsterer's workshop. The change of use sought is to a bicycle workshop which is to include an ancillary café and office (mixed B1(c) and A3 use).
- 1.3 The primary element of the proposed use is the bicycle repair and fitting service. The café is intended to serve customers who are waiting for their bicycle to be repaired. In addition, the applicant proposes some additional services such as bicycle storage (for up to 20 bikes) and various educational workshops.
- 1.4 The application is before planning committee following requests from Councillor Barnes and Councillor Sudbury to enable the committee to consider the potential impact on surrounding residential properties.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Conservation Area
Smoke Control Order

Relevant Planning History:

N/A

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 3 Sustainable environment
CP 4 Safe and sustainable living
CP 7 Design
TP 1 Development and highway safety

Supplementary Planning Guidance/Documents

Central conservation area: Bath Road Character Area and Management Plan (July 2008)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

GCC Highways Planning Liaison Officer

2nd November 2015

I refer to the above planning application received on the 29th September 2015 with submitted plans

Location:

The proposed change of use relates to a site situated between the class 4 highways known locally as Naunton Parade and Clare Street both of which are accessed from the class 1 A46 Bath Road.

Access:

The proposed site would be accessed from a footway linking Naunton Parade and Clare Street. The footway appears not to be adopted, however it is un-gated, and although it is no formal highway there are established highway/vehicle rights across it in particularly the northern half of the lane which provides vehicle access to a private drive. Cycles accessing the site from the north do have adequate room to pass a pedestrian. However those cyclists accessing from the south (Naunton Parade) enter lane where it is approximately 2.0m-2.5m potentially restricting the free flow of pedestrians and cycles. Currently there are no provisions which restrict or prevent a person from cycling down the access lane. Furthermore due to the established vehicular use over the northern end of the lane it would not be possible to restrict access by cycles. To ensure pedestrian priority and to reduce any potential conflicts between cyclists and pedestrians, cycle dismount signage could be erected, this would be appropriate at the southern end where the passing of a cycle and pedestrian is restricted.

In regards to planning legislation and cycling in the general area, cyclists should be dismounted when on a public footway. Section 72 of the Highways Act 1835 states that cycling on the footway is an offence, and would be regarded as dangerous cycling under section 28 of the Road Traffic Act 1988 should any conflict or collision occur.

Access for pedestrians and dismounted cyclists would be regarded safe and secure using an existing means of access. Rites of passage and ownership falls outside of planning.

Parking:

The proposal has not provided any off-road vehicular parking facility which is indicative of many of the commercial units in or around the Bath Road. Naunton Parade and Clare Street are subject to double yellow line parking restrictions. Therefore any parking occurring on the double yellow lines would fall outside of planning and would become a civil enforcement issue and therefore fall under other legislation. There are publicly available parking bays on Bath Road, as well as a publicly available pay and display car park within 70m of the development site and is well within a comfortable walking distance.

Vehicular Trip Generation:

In regards to planning legislation the development would not have a residual cumulative impact that is regarded as severe. Any conflicts regarding cycling on the footway and parking upon the highway in an area of parking restrictions would fall under other legislation outside of planning.

Therefore I recommend that no highway objection be raised subject to condition(s).

Condition 1: Cycle Dismount Signage:

Prior to the building hereby permitted being brought into use, details of a cycle dismount sign shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved plans.

Reason: - To minimise conflict between pedestrian and cyclists in accordance with Paragraph 35 of the NPPF.

Environmental Health

16th November 2015

At your request I have had another look at this application, as some details have changed.

Having looked, I still have no objection to the proposal overall. The limited kitchen facilities vent to an outdoor area owned by applicant, not directly over an adjacent property. Any impact from noise or odour will be minimal. The proposed opening hours seem reasonable, and I would suggest that a condition is applied to ensure that these hours are restricted. I would also recommend a condition to ensure that no deliveries to, or collections of waste from, the premises are made outside of those opening hours, to ensure there is no loss of amenity for neighbouring properties.

I would agree with some of the concerns raised that this development should not be allowed to be further developed to become an A3 premises, so would suggest that if permission is granted, it is made a personal condition to the current applicant.

Building Control

11th November 2015

Excessive travel distance for means of escape in case of fire.

Strategy needed to develop an adequate means of controlling spread of flame and safe exit from the building.

Transport Projects Officer

8th January 2016

As discussed, I'd be very supportive of this initiative. I think it would be a good thing for the community as a whole and for the cycling community. The Bath Road area is a very busy and thriving community and has a unique atmosphere.

There are a lot of people living and visiting the area who ride bikes. The extra cycle parking we got installed is constantly in use. I'd add that I don't believe that there would be any noise nuisance and certainly no more than any other workshop that may have been there in the past.

I think this would be a positive addition to the area.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	10
Total comments received	11
Number of objections	11
Number of supporting	0
General comment	0

5.1 Ten letters have been sent to neighbouring properties and eleven letters of representation have been received raising objections to the proposal.

5.2 The concerns raised within the responses have been summarised below;

- Not a suitable use within residential area.
- Odours from cooking
- Noise and general disturbance
- Opening hours should be restricted.
- Lack of parking and highway safety issues.
- Additional traffic
- Ownership and access issues
- Proximity of outside space to neighbouring gardens.

- Impact on the conservation area

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2** The key considerations in relation to this application are the principle of the proposed change of use, the impact on neighbouring amenity and highway considerations.

6.3 Principle of change of use

- 6.4** There are no specific Local Plan Policies which are relevant when considering the principle of the change of use proposed. In this case, the building benefits from previous commercial uses which include being part an undertaker's workshop and also upholsterers. Being a sui generis use, policy EM2 is not relevant and as such, there is no policy presumption contrary to the proposed change of use, subject to other relevant material considerations.

6.5 Impact on neighbouring property

- 6.6** Local Plan Policy CP4 requires development to protect the existing amenity of neighbouring land users and the locality.

- 6.7** A number of objections have been received from residents within the locality, with concerns regarding the noise and disturbance of such a use in this area. The primary aspect of the proposed use is the repair of bicycles and fitting services. The applicant has confirmed this would entail the use of a hammer, an air hose and a drill. In addition, an ancillary café is proposed, which would cater for cyclists who are using the repair service and also cyclists passing by.

- 6.8** Due to the nature of the change of use the Borough's Environmental Health Officer has been consulted. No objection has been raised regarding the change of use and the impact on neighbouring properties. The impact of odour from the kitchen has been raised as a concern within the submitted letters of representation; however the EHO has confirmed that the impact of noise and odour from the proposed vent would be minimal. The applicant has provided details of the nature of catering within the café, with most of the food being pre-cooked off site and heated up on site. The purpose of any extraction is for ventilation, as there are no opening windows within this space.

- 6.9** The intended hours of operation have also been raised as a concern by local residents. The applicant proposes opening hours of 8:30am to 7pm Monday to Saturday and 9am to 6pm on a Sunday or bank holidays. The Environmental Health Officer has reviewed this information and considers these hours to be reasonable, in light of the activity proposed at the site. Officers have also considered the fact that the previous uses of the building would not have been subject to any planning restriction on opening hours and therefore there is the opportunity to restrict the hours of operation through this application.

- 6.10** Overall, officers do not consider that the proposed change of use will result in an unacceptable impact on neighbouring amenity. Clearly there is likely to be an increase in activity at the site, but this in itself is not considered detrimental to the amenities of the area. There is the opportunity for customers to use the outdoor space, however this space is limited in size and would remain an incidental aspect of the proposed use.

- 6.11** In light of all of the above, officers are satisfied the proposal would not result in any unacceptable increase in noise and disturbance to neighbouring dwellings. The EHO has suggested the use of a condition to restrict opening hours and the restriction to a personal

permission, both of which attached to this recommendation. With the addition of these conditions, officers are satisfied the proposal is in accordance with Local Plan Policy CP4. As such, there is no policy presumption contrary to the proposed change of use, subject to other relevant material considerations.

6.12 Access and highway issues

- 6.13** A number of objections received also raise concerns regarding the impact of the proposal on the highway network. Gloucestershire County Council Highways has provided a detailed response which considers access, parking and the potential increase in vehicular trips resulting from this proposal.
- 6.14** Gloucestershire County Council Highways raises no objection to the proposal, but initially suggested a sign would be required on Naunton Parade, which would require cyclists to dismount at this point. This comment was made prior to an amendment to the site location plan which indicates access to the building will be using Clare Street. Following this amendment, the Highway's Officer has confirmed that access from this point is suitable and can safely support the passing of a pedestrian and cyclists. As such, there is no requirement to attach a condition in relation to signage.
- 6.15** A received letter of representation states that there would be no right of access from Naunton Parade to the application building, due to ownership. Whilst these comments have been noted, they are not relevant to the determination of this application and would be a separate legal issue which would fall outside of the planning remit.
- 6.16** In light of the above, the proposal is considered acceptable in terms of its impact on the surrounding highway network.

6.17 Other considerations

- 6.18** Members will note this application has been the subject of various rounds of consultation, with a number of comments stating the submitted plans have not materially changed. The red line was initially inaccurate and in addition, did not demonstrate access to the building from the public highway. The amendments resulted in the red line incorporating land outside of the applicant's ownership and therefore, a notice has been published within the local paper and the ownership certificate accompanying the application has been updated.
- 6.19** Should there be any outstanding issues in relation to ownership, these will need to be dealt with outside of the planning process.
- 6.20** Finally, officers have noted the comments received from Building Control and relayed these to the applicant. As this stage, the purpose of this application is to establish if the use is acceptable in planning terms. The applicant is fully aware that there may be Building Control issues to overcome, however the comments received are not relevant to the acceptability of this application.

7. CONCLUSION AND RECOMMENDATION

- 7.1** In conclusion, officers consider that when assessed against the provisions of the NPPF and the Local Plan, the proposed development is acceptable.
- 7.2** There are no specific policies which would result in the principle of the change of use proposed being unacceptable. In fact, given the previous commercial uses of the building, officers consider the proposal represents a positive economic use, for what is currently a redundant building. Furthermore, the nature of the use will encourage a more sustainable form of transport.

- 7.3 Despite the concerns raised in relation to the impact of the proposal on the amenity of adjoining occupiers, officers are satisfied the proposal will not result in any unacceptable increase in noise and disturbance, due to the small scale nature of the use proposed. The Borough's Environmental Health Officer also raises no objection, subject to the addition of certain conditions.
- 7.4 Finally, the Highway's Authority raises no objection to the proposal and the impact on the local highway network.
- 7.5 The recommendation is to approve this application, subject to the conditions set out below.

8. CONDITIONS / INFORMATIVES

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with drawing numbers 1449.01C and 1449.03A received 28th September and 4th December 2015.
Reason: To ensure the development is carried out in strict accordance with the approved drawings.
- 3 This permission shall be exercised only by Mr Nigel Clifton (the applicant).
Reason: The development is only acceptable because of special circumstances and the Local Planning Authority wishes to have the opportunity of exercising control over any subsequent use in the event of the applicant ceasing the use hereby permitted.
- 4 The use hereby permitted shall not operate outside of the hours of 08:30 to 19:00 on a Monday to Friday, 08:30 to 19:00 on a Saturday and 09:00 and 18:00 on Sundays and bank holidays.
Reason: To safeguard the amenities of adjoining properties and the locality in accordance with Local Plan Policy CP4 relating to safe and sustainable living.

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

- 2 The applicant's attention is brought to the consultation response received from Building Control and the requirements for any proposal to comply with Building Regulations.