

PLANNING APPLICATION OFFICERS REPORT



Application Number	20/01355/S73	Item	04
Date Valid	09.09.2020	Ward	ST PETER AND THE WATERFRONT
Site Address	24 Looe Street Plymouth PL4 0EA		
Proposal	Variation of condition 3 of application 17/01484/FUL to allow for continued use of the garage		
Applicant	Miss Kayleigh Bullock		
Application Type	Removal or variation of a condition		
Target Date	04.11.2020	Committee Date	10.12.2020
Extended Target Date	11.12.2020		
Decision Category	Councillor Referral		
Case Officer	Miss Amy Thompson		
Recommendation	Grant Conditionally		



This application was referred to Planning Committee by Councillor Tuffin

1. Description of Site

24 Looe Street is a three storeyed, end of terrace property located within the designated Barbican Conservation Area. Residential properties to the west and opposite, to north, garage court to rear and grounds of currently vacant public house to east.

2. Proposal Description

Variation of condition 3 of application 17/01484/FUL to, allow for continued use of the garage.

The description of the development was originally "Variation of condition 3 of application 17/01484/FUL to remove the personal limitations of the garage use, allow for continued use of the garage and for other people to work there" but has since been amended to represent the changes that has been agree with the applicant in response to concerns raised by the officer.

3. Pre-application Enquiry

None.

4. Relevant Planning History

02/01199/FUL - Change of use and conversion of commercial garage / workshop to form single dwellinghouse - Granted conditionally

17/01484/FUL - Change of use from residential garage to commercial garage (Class B2) - Granted conditionally

21 Looe Street - Porters Public House

20/01460/FUL - Change of use of public house to a residential dwelling and window alterations - Under consideration.

5. Consultation Responses

Economic Development Department - No view on the proposal.

Public Protection Service- No objection.

Local Highway Authority - Recommend refusal if the restrictive condition is removed that ensures the use is ancillary to the main dwelling due to concerns of the loss of off-street parking provision provided by the garage. They do however support the continued use of the garage in principle.

Historic Environment - No comment.

6. Representations

One public comment has been received that objectors to the proposal and raising the following concerns:

- Parking and access for emergency vehicles.
- Noise and air pollution
- Inappropriate, unsuitable and detrimental to the Conservation Area
- Ramp from vehicle transporting vehicles to the garage have harmed cobbles and pavements.
- Previous garage was opened on the 1920s when Looe Street was not a Conservation Area and motor traffic was rare.
- Concerns if the garage is sold on and how future owners will behave.
- No guarantee the applicant will take care to avoid complaints if a continued use is approved.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as on March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG) of their choice to monitor at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019. This confirmed the Plymouth, South Hams and West Devon's revised joint Housing Delivery Test Measurement as 163% and that the consequences are "None". It confirmed that the revised HDT measurement will take effect upon receipt of the letter, as will any consequences that will apply as a result of the measurement. It also confirmed that that the letter supersedes the HDT measurements

for each of the 3 local authority areas (Plymouth City, South Hams District and West Devon Borough) which Government published on 19 February 2019. On 13th February 2020 MHCLG published the HDT 2019 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 139% and the consequences are "None".

Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.4 years at end March 2019 (the 2019 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2019 (published 26 July 2019). The methodology and five year land supply calculations in the Housing Position Statement are based on the relevant changes in the revised National Planning Policy Framework published 19 February 2019 and updates to National Planning Practice Guidance published by the Government in September 2018, subsequently amended by NPPG Housing Supply and Delivery published 22 July 2019.

As a result of Government policies and guidance regarding lockdown due to Covid 19, the 2020 Housing Survey was delayed by approx. 2 months as site visits could not take place. The 2020 5YLS update is therefore delayed by 2 months and will now be published in September 2020. The impact from Covid 19 is likely to slightly reduce the supply identified for 2020/21 due to 2-3 months of limited/nil construction activity during lockdown. This however would not have the effect to result in a material change to the JLP Authorities 5YLS position, given the substantial 5YLS position at the 2019 monitoring point i.e. 6.4YLS which represents a surplus of 1,977 deliverable dwellings above what is required over the period 2019-2024 to demonstrate a 5YLS.

Other material considerations include the policies of the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and National Design Guidance. Additionally, the following planning documents are also material considerations in the determination of the application:

- Plymouth and South West Devon Supplementary Planning Document (2020)
- Barbican Conservation Area Appraisal Management Plan 2007

8. Analysis

1. This application has been considered in the context of the development plan, the adopted Joint Local Plan, the Framework and other material policy documents as set out in Section 7.
2. This application has been assessed against the Council's adopted planning policy in the form of the Plymouth and South West Devon Joint Local Plan (March 2019) policies are SPT1 Delivering sustainable development, DEVI Protecting health and amenity, DEV2 Air, water, soil, noise, land and light, DEV20 Place shaping and the quality of the built environment, DEV21 Development affecting the historic environment, , DEV29 Specific provisions relating to transport, and the National Planning Policy Framework (NPPF) .
3. The primary planning considerations in this case is the impact on the Conservation Area, impact on neighbouring amenity (including issues of noise), issues of pollution, and transport considerations.
4. Section 73 of the Town and Country Planning Act 1990 (as amended) enables an application to be made to a Local Planning Authority (LPA) to vary or remove conditions associated with a planning permission.
5. It should be noted that, in deciding an application under S73, the LPA must only consider the condition/s that are the subject of the application - it is not a complete re-consideration of the application. Therefore the material considerations relating to the proposed amendments only are discussed below.

6. This application has been submitted under S73 of the Town and Country Planning Act 1990 to remove condition 3 (Personal Limitation) of application 17/01484/FUL to remove the temporary use of the garage and to allow for other people to work there.
7. Permission was granted under application 17/01484/FUL to allow for the change of use of 24 Looe Street's integral residential garage to a commercial garage. Officers considered the proposal to be acceptable in principle due to the site's previous history as a commercial garage and the nature of the commercial use which will have one person working at any time and the site's location. Officers considered the supporting information and the concerns that had been raised by residents and granted the consent with a condition that restricted the use to only the proposed occupier of the garage for a three year period.
8. Application 17/01484/FUL was granted permission with the following condition attached:

CONDITION: PERSONAL LIMITATION

The use hereby permitted shall be carried on only by Mr Scott Stevens and shall be for a limited period being the period of 3 years from the date of this permission, or the period during which the premises are occupied by Mr Scott Stevens, whichever is the shorter.

Reason:

In granting this permission the Local Planning Authority has had regard to the applicant's special circumstances but for which the application would have been refused, in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 120-123 of the National Planning Policy Framework 2012.

9. This application seeks to remove the condition to allow for continued use of the garage and allow for others to work within the garage. The submitted planning statement has stated that they wanted the condition to be removed to allow the occupier of the garage to have help on a temporary basis if needed.

Impact on the Barbican Conservation Area

10. The site stands in an attractive and popular street within the Barbican Conservation Area; a street which is rich in historic interest, and that presents a large number of Grade II listed buildings. The Barbican Conservation Area was first designated in 1967, and was one of the earliest to be designated in the country.
11. Although the building was converted at some point to a garage during the 20th century, it has not been used for this purpose for some time, and during that time the street has developed as a mixed use area, with many of the businesses embracing the historic visual attractiveness of this area, advertising their businesses with appropriately discreet signage to their frontages.
12. From a historic point of view, the main considerations need to be the impact on the setting of the listed buildings and to the character and appearance of the historic street as a whole. The Historic Environment Officer has raised no objection to the proposal. The proposal does not seek to make any external changes and considering the previous use and other uses in the area it is considered that the proposal would not harm the character or appearance of the Conservation Area.
13. The Barbican Conservation Area Appraisal and Management Plan sets out principles that should be considered for any changes proposed in the Conservation Area. The most relevant policy in this case is Principle 1 that states: Proposals to develop or redevelop sites and convert buildings to new uses will be required to preserve or enhance the character of the

Conservation Area, and to contribute positively to the wider regeneration of Sutton Harbour". It is considered that the proposal would not conflict with this principle or the other principle set out in the Barbican Conservation Area Appraisal and Management Plan.

Impact on Neighbour Amenity

14. Permission was granted under application 17/01484/FUL with an additional condition that restricted the use of the garage Monday to Friday 08.00hrs - 18.00hrs and Saturdays 08:30 - 13:00hrs. This condition was recommended by the Public Protection Service in order to minimise the possibility of any noise complaints.
15. The proposal seeks to remove the condition that restricts the use of the garage to only the occupier and to allow for a continued use. The proposal does not seek to make any amendments to the condition that restricts the working hours.
16. Concerns have been made within the public comments with regard to noise pollution. It is noted that the Public Protection Service has not raised an objection to the proposal and the officer sought confirmation if any noise complaints had been received with regards to the application site. The Public Protection Service confirmed that no noise complaints had been recorded with regard to the garage at 24 Looe Street.
17. The application site is located in a predominantly residential area however it is noted that there is a number of commercial uses within Looe Street. The application site is an end of terrace property is in close proximity Vauxhall Street, a major route that provides access to and from the Barbican.
18. Officers carefully considered the concerns that have been raised and the comments from the Public Protection Service. Officers consider that the continued use of the commercial garage is acceptable in principle however only with a condition that continues to restrict the use of the garage so that it can only be used ancillary to 24 Looe Street and only allows for one person to be able to work within the garage at any one time.
19. The applicant has therefore agreed to not remove the condition but to amend it to the following:

CONDITION: RESTRICTED USE

The garage use hereby permitted shall only be used ancillary to no. 24 Looe Street and shall only ever have one person working within the garage at any one time.

Reason:

Whilst the proposal for such ancillary use is acceptable to the Local Planning Authority, the independent use of the garage premises with more than one person working within the premises would be likely to produce conditions unacceptable to the Local Planning Authority; this condition is in accordance with policy DEVI (Protecting Health and Amenity) and DEV29 (Specific provisions relating to transport) of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 2019.

20. Officers have carefully considered the concerns raised within the public comments and it is considered that with the added restrictive conditions, that restrict the opening hours and the number of people that work within the garage, the proposal would not have a detrimental impact on neighbours' amenity. The conditions will ensure that the use of the garage can only be used ancillary to the 24 Looe Street and will not be used independently to the dwelling. The conditions will also ensure that only one person can work within the garage, which will restrict the amount of work that can be undertaken within the garage at any one time. The

proposal is therefore considered to comply with policies DEVI and DEV2 of the Joint Local Plan.

Impact on the highway network

21. At the time of the original application the Highway Authority were unable to accept the principle of losing a residential garage, to become a commercial facility, due to the fact that it would remove the opportunity to provide a parking space in a part of the City where parking is at a premium. The potential loss of off-street parking is not compliant with policy.
22. However the application was approved on the basis that the future occupier was linked to the donor residential property and that the applicant confirmed that the residents would still be able to park within the garage, as they lived above it. Therefore, the recommendation to refuse the application, due to loss of parking, was not considered appropriate.
23. Within this current application the applicant has requested that the personal limitation condition is removed so that the occupant of the garage could, if required to do so, employ someone else to work within.
24. Furthermore, they have requested consideration of obtaining a permit for use within the resident parking scheme, of which they are excluded, in accordance with Policy, following the original planning application.
25. With regard to the provision of parking permits this is a matter that is considered outside of the Planning process. However the number of permits currently issued exceeds the amount of space on-street and therefore the Policy decision to exclude this property is still relevant today. As such the property would not be eligible for a permit and the informative will remain reminding the applicant that the development will be excluded from obtaining permits and purchasing visitor tickets for use within the scheme.
26. The Highway Authority considers the previous personal limitation condition is required to restrict the use of the garage to be ancillary to the dwelling to which it formerly served. The condition ensures that the garage is linked to the property, by virtue of the named occupant contained within the condition, but does not restrict the occupant recruiting a new employee. Removal of the condition is therefore not considered appropriate by the Highway Authority as this could remove the connection to the dwelling. The Highway Authority therefore is unable to support the removal of the condition due to concerns the removal of the condition will result in the loss of off-street parking.
27. The Highway Authority has stated it does not however object to the continued use of the site in principle.
28. Having considered the comments from the Highway Authority and the concerns raised by the public it is considered inappropriate to completely remove the condition. Officers however consider that it is appropriate to amend the condition to ensure that the garage is only used by one person and ancillary to the main dwelling. This will ensure that the proposal will not result in a loss of off-street parking to serve the dwelling and would ensure that the proposal would not result in a detrimental impact on local highway. The proposal is therefore considered to comply with policy DEV29 of the Joint Local Plan.

Other Impacts

29. Within the public comment received concerns were raised regarding air pollution and fumes from the proposed garage, however considering the size of the unit with one employee working in the garage at any one time, the location of the proposal next to a busy road that

acts a key route to the Barbican, and the previous use it is not considered a sufficient reason to refuse the application

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

None.

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

13. Conclusions and Reasons for Decision

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the principle of the continued use of the garage is acceptable with the added conditions which will ensure the use of the garage is ancillary to the main dwelling and only allows for one person to work within the garage at any one time. The proposal is therefore considered to accord with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 09.09.2020 it is recommended to Grant Conditionally.

15. Conditions / Reasons

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

I CONDITION: APPROVED PLANS

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

Ground Floor Plan 17072017 - received 17/07/17

Site Location Plan 14072017 - received 14/07/17

Site Plans 14072017 - received 14/07/17

Front Elevation 14092017 - received 14/09/17

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014-2034 (2019).

2 CONDITION: RESTRICTED USE

The garage use hereby permitted shall only be used ancillary to no. 24 Looe Street and shall only ever have one person working within the garage at any one time.

Reason:

Whilst the proposal for such ancillary use is acceptable to the Local Planning Authority, the independent use of the garage premises with more than one person working within the premises would be likely to produce conditions unacceptable to the Local Planning Authority; this condition is in accordance with policy DEVI (Protecting Health and Amenity) and DEV29 (Specific provisions relating to transport) of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 2019.

3 CONDITION: WORKING HOURS

Due to the proximity of residential properties, the use of the garage should be restricted to the following times:

- Monday to Friday 08.00hrs - 18.00hrs
- Saturdays 08:30 - 13:00hrs

Reason:

To protect the residential and general amenity of the area from disturbance from noise at unreasonable hours and avoid conflict with Policies DEVI and DEV2 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019) and the National Planning Policy Framework 2019.)

INFORMATIVES

1 INFORMATIVE: CONDITIONAL APPROVAL (NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework 2019, the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

2 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

3 INFORMATIVE: NOISE BREAKOUT

The garage doors should be kept closed as much as is reasonably practicable to prevent noise breakout affecting nearby residents.

4 INFORMATIVE: RESIDENT PARKING PERMIT SCHEME

The applicant should be made aware that the property lies within a resident parking permit scheme which is currently over-subscribed. As such the development will be excluded from obtaining permits and purchasing visitor tickets for use within the scheme.