

## ADDENDUM REPORT PLANNING COMMITTEE 08 NOVEMBER 2012

**Item: 6.1**

**Site: 89 Fleetwood Gardens**

**Ref: 12/01599/PRDE**

**Applicant: Mrs Gillian Buckley**

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Before a recommendation could be made on this application advice was sought from the Council's Planning Lawyer to consider whether a change of use was taking place. The advice received from legal said while a hobby might normally be subordinate to the use of the premises as a dwellinghouse it may be of such a kind and requiring such space that the enjoyment of the dwellinghouse becomes incidental to the indulgence of the hobby.

Regard must be had to a number of matters including:

1. Where is the dwellinghouse situated? Different considerations may apply depending on whether it is in the country on the one hand or in the centre of a town on the other.
2. What is the size of the dwellinghouse in the context of the user which is said to be incidental to its enjoyment? How much ground is included in its curtilage?
3. What is the nature and scale of the activity which is said to be incidental to the enjoyment of the dwellinghouse as such? The more dominant the activity the less likely it is to be described as incidental. The indulgence of a hobby is more likely to qualify than some commercial activity.
4. What is the disposition and character of the occupier? While, as already stated, his or her view of whether the activity is incidental is not in any sense conclusive, it is nevertheless something to which regard should be paid. One person might consider a particular hobby was incidental to his or her enjoyment of the dwellinghouse, while another would say that such an activity was unthinkable in or near a dwellinghouse.

These points are critical to concluding whether a change of use is taking place. Following this advice the case officer sought additional information from the applicant which is recited below:

*The property is a 3 storey town house with integral garage and the layout is described below to clarify the full use of the property as a family home and the size of the dwelling compared to the proposed change of floor space in the garage.*

*The ground floor consists of a large kitchen / utility area fitted with all modern appliances including washing machine and tumble dryer. Floor size is approx. 4.5m x 4m but not ideal for entertaining as only room for a small table and limited space to bake and refrigerate food on top of family meals. I would like to add dining space within the converted garage area which would also be used for family gatherings.*

*There is also a hallway and staircase and a small cloakroom. Total floor space on ground floor without including the garage approx. 27sq mtrs.*

*The first floor consists of a large lounge, family bathroom and a bedroom with stairs leading to second floor. Again the floor space (being over the garage too) would be approx. 9.5 m x 4.5m or 42.75 sq mtrs. The lounge cannot be used as a dining area as would mean going up and down the stairs numerous times with hot food and dishes.*

*The second floor has the master bedroom with an en-suite shower room and two further bedrooms. The total floor space again would be approx. 42.75 sq mtrs.*

*My family consists of two adult children who have yet to leave home – hence the need for the space and number of rooms. The fourth bedroom is used as a family study / computer room.*

*With 3 cats as well I would describe the property as a family home and the hobby I have described in my application is for cooking. This can be anything from small dinner parties to baking cakes and savoury items for parties and special occasions as well as experimenting with chutneys and jams.*

*The garage itself is approx. 5m x 3m in total and you will see from the plan that my aim is to fit a small range of units for additional storage all contained within an area of 9 sq m. The kitchen area would have a fridge / freezer, cooker and two sinks.*

*The rest of the space 6 sq m would then be usable as a dining area for entertaining and family use. The only space that would be used commercially would equate to 9 sq mtrs of a total habitable area of 117 sq mtrs which is less than 8%.*

*The idea I have is to be able to produce small buffets such as for a family party or other special occasions. Having done a lot of research I know that I would need a designated space to be able to register with environmental health and conform to all the food hygiene regulations, particularly as I have pets. The quality of the food would be very important to me and therefore all equipment and surfaces would need to be kept clean and hygienic in this dedicated area. There would not be any great profit in this as it would be more for the pleasure of preparing and baking the food. The sort of profit I would expect would be in the region of £30 - £40 for a buffet for up to 80 people.*

*I will be retiring in 8 years time but have recently reduced to working 4 days a week. I therefore envisage the maximum time I would be using the space for profit would be once or twice a week. As all the work would be done by me time would not allow for more and of course this would be subject to any demand. This would not be known until I was able to produce any food for sale but I fully realise that if it became popular as I near retirement I would need to seek a premises designed for commercial use if I were considering starting a proper business. This would give me a start to see if such a venture might be viable.*

*My other option would have been to build a small kitchen on the back of the property which would not have needed planning permission. However, as the garage is not used for the car I felt that bringing the space into use would be a much better idea and the property would benefit from the additional insulation.*

*I had assumed there must be a lot of residents in the Plymouth area that use their garages for profitable uses such as fixing cars or televisions or using workshops and working from home. I therefore did not foresee this would be any problem and only want to continue if the use is legitimate and all proper channels have been adhered to.*

*Taking this information into account and the advice received from the Councils Planning Lawyer, it is considered that a change of use is not taking place and on balance the use of the premises remains predominately domestic in terms of total floor space. The hobby taking place within this garage, which does have a small commercial element, appears to be very minor when considered against the largely domestic use of the dwelling and the garage which is to be converted. As such it is recommended that a certificate of lawfulness is issued for this garage conversion.*