

**Parish: Northallerton**  
Ward: Northallerton South  
**15**

Committee Date: 26 May 2016  
Officer dealing: Mrs T Price  
Target Date: 12 February 2016

**15/02817/FUL**

**Change of use of commercial building to a dwelling  
at 88B High Street, Northallerton  
for Mr G Farooq**

**1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 This application is for the conversion of a building, formerly approved (although the permission was not implemented) as cafe premises, to form a single storey two-bedroomed flat off the southern side of Tweddles Yard at the rear of 88 High Street, a grade II listed building. Whilst the element of the building which comprises this application is of modern construction it is attached to the listed building and, consequently, a concurrent application for listed building consent has been submitted and is reported under reference 12/01671/LBC.
- 1.2 The footprint of the building remains unchanged and the external alterations are limited to the reduction in size of the two shuttered windows by infilling with matching brickwork and two low level roof lights, rendered walls and soft landscaping to the front entrance. The building has openings only onto Tweddles Yard and has a small yard area adjoining, which provides for bin storage. There is pedestrian access to the site only from The High Street with a vehicular access for emergencies and servicing available from Elder Road where the closest neighbour to the site is the British Legion Club premises. Approval has been given for the conversion of neighbouring property to the north to residential use, and the conversion of the building to the east to residential use. The building to the west is a public house and yard.
- 1.3 A site notice has been posted at the entrance to the site. The agent has been advised that a Listed Building Application is required.

**2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 08/00197/FUL - Change of use of retail premises to hot food takeaway; Refused 2 April 2008, Appeal Dismissed 6 January 2009.
- 2.2 10/01160/FUL - Change of use of retail unit to coffee house; Granted 13 July 2010.
- 2.3 12/01670/FUL - Change of use of coffee house to a dwelling; Refused 2 January 2013, Appeal Dismissed 1 August 2013. The reasons for refusal were:
1. The location and orientation of the building, the restricted light available, together with the lack of useable private amenity space are such that the creation of a residential unit would be contrary to the provisions of Local Development Framework Policies CP1, DP1 CP17 and DP32 which seek to ensure that all developments make provision for the basic amenity needs of residents and that the design is of the highest quality.
  2. The site is in an area that suffers from anti-social behaviour that would detrimental to the amenity and safety of occupiers of the proposed dwelling and the proposal is therefore contrary to the National Planning Policy Framework, particularly paragraph 58 and the Local Development Framework Policies CP1, CP17, CP20, DP1 and DP32.

3. In the absence of a mechanism to deliver the necessary open space infrastructure detailed in Local Development Framework Policies CP19 and DP37 and the Open Space, Sport and Recreation Supplementary Planning Document the proposal is in breach of the aforementioned policies as it will fail to provide the required standard of provision to meet the demand resulting from the development.

2.4 14/01004/FUL - Retrospective application for the change of use of a retail unit into an apartment; Granted 16 April 2015. (This site is immediately opposite the application site on Tweddles Yard.)

### **3.0 RELEVANT PLANNING POLICIES**

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
Development Policies DP1 - Protecting amenity  
Core Strategy Policy CP17 - Promoting high quality design  
Development Policies DP32 - General design  
Core Strategy Policy CP20 - Design and the reduction of crime  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP8 - Type, size and tenure of housing  
Development Policies DP14 - Gypsies and travellers' sites  
Development Policies DP13 - Achieving and maintaining the right mix of housing  
National Planning Policy Framework

### **4.0 REPRESENTATIONS**

4.1 Northallerton Town Council – approve.

4.2 Highway Authority - No objections.

4.3 Environmental Health Officer - The proposed residential dwelling is situated to the rear of the High Street in Northallerton and is therefore immediately adjacent to commercial premises, including an Indian restaurant and takeaway (Lion of Asia) and a public house (Black Bull). The Environmental Health Service has received several complaints from existing residential dwellings in recent years of noise arising from the use of these, and other, commercial premises in the vicinity including:

- Noise from shop radio, November 2014;
- Noise from burglar alarm, November 2013; and
- Noise from loud music, May and July 2014.

The proximity to commercial premises may also subject a residential dwelling to noise from deliveries and customers' voices (laughing, shouting etc.), particularly in the evenings and into the night when preparing or trying to sleep.

The Environmental Health Service considers a change of use from commercial to residential dwelling has the potential to adversely impact on the amenity of any future resident due to noise associated with the use of neighbouring commercial premises and therefore recommends the application is refused.

4.4 Internal Drainage Board - No observations.

4.5 Police Architectural Liaison officer - have noted the email report from Environmental Health and I would agree with the comments made in respect of noise nuisance from

surrounding commercial premises. This will undoubtedly affect the amenity of any residents of this proposed dwelling and could result in conflict or tension requiring an on-going demand for police and environmental health services. This would not be acceptable. (Details in response from 2012 still stand.)

4.6 Public comment - No representations received.

## **5.0 OBSERVATIONS**

5.1 The site is within the urban area of Northallerton and residential use is therefore appropriate in principle. The acceptability of the proposal therefore turns on (i) the type and size of dwelling proposed and the need for such units in this location; and (ii) residential amenity.

### Type and size of dwelling

5.2 Policies CP8 and DP13 seek to make provision for a wide range of housing types and sizes related to the needs of local communities and residents. Small (i.e. one and two-bedroomed) properties for young people, couples and elderly people, particularly single storey, within town centres are encouraged.

### Residential amenity

5.3 Policy DP1 states "All development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight. Development must make provision for the basic amenity needs of occupants and/or users, including where appropriate provision of an adequate level of open space for the use of occupants/users of the development."

5.4 The building only has a north facing frontage, onto the footway known as Tweddles Yard which is in the order of 3m in width at this point and faces onto a two storey building opposite. It is considered this would have an overbearing and oppressive impact on the occupiers of the proposed dwelling, even with the two additional roof lights proposed. Additionally the proposed dwelling would back onto the service yard to the rear of the adjacent public house which is likely to cause a loss of amenity through general noise and disturbance.

5.5 It is considered that the current application is materially different from the detail of application 14/01004/FUL for the site immediately opposite on a number of grounds. Firstly that the adjacent site faces onto a single storey building, resulting in a less overbearing relationship, secondly that the property is south facing and as such benefits from better natural daylight and finally that the current application backs onto the neighbouring Public House service yard.

5.6 The potential bin storage area and the outdoor space attached to the building are not accessible directly from the building and would not, realistically, provide a basic 'sitting out' area for occupiers. Policy DP32 states that the design of all developments must be of the highest quality and should seek to achieve creative, innovative and sustainable designs that take into account local character and settings and promote local identity and distinctiveness. The proposed dwelling does not achieve the minimum standards of amenity required by the LDF or NPPF policies and is a poor standard of design.

5.7 As reported in section 3, a previous application for residential use of this property was refused by the Council and dismissed on appeal. The inspector stated: "No information has been submitted which would demonstrate that alternative uses of the

building have proved not to be viable. Even if this could be demonstrated, the harm caused to the living conditions of future occupiers in the proposed scheme would be of over-riding concern and I conclude that, for this reason alone, the appeal should be dismissed.”

5.8 In submitting the current application the applicant has sought to address the amenity issues through the addition of roof windows.

5.9 Consultations on previous proposals for the site (application 12/01670/FUL) with the Police Architectural Liaison Officer have revealed that Police records have shown regular anti social behaviour disturbances in the immediate area of this site and concern was expressed that the narrow and indirect access to the premises, poor lighting and proximity of drinking venues would attract people to congregate and remain longer than might otherwise be the case, circumstances which are likely to encourage more anti social behaviour to the detriment of the amenity and, potentially, safety of occupiers of the premises. The earlier response on a nearby application in 2011 stated:

"A key consideration must be the rear alleyway which hugs the site's building shell and links Elder Road to the High Street. There is clear evidence here of target hardening measures already applied in the form of shutters and grilles. The alleyway is dark, narrow and uninviting and has the potential, running alongside a residential development, to act as a crime generator and a 'honey pot' where the anti-social will gather. It is recommended that this private alleyway is gated to prevent casual intrusion at the site and it must be considered that re-development of the site offers a perfect opportunity to do this. (The alley is a public right of way and has not been gated.)

Community safety in respect of pedestrian links falls into two categories. The first is that properties and their perimeters which adjoin footpaths are susceptible to crime and vandalism and the second is personal safety, which includes risk or fear of assault. Additionally footpaths with links to adjacent properties can provide easy escape for persons having committed crimes.

Nowhere is this more evident than elsewhere in Elder Road. The alleyway linking Elder Road with the High Street has suffered from high levels of crime and anti-social behaviour for years and seriously affected the quality of life of the resident and businesses adjacent to the alley."

5.10 The Environmental Health Service has received complaints in the past relating to noise issues at the site. The Environmental Health service considers a change of use from commercial to residential dwelling has the potential to adversely impact on the amenity of any future resident due to noise associated with the use of neighbouring commercial premises and therefore recommends the application is refused as the scheme would not be in accordance with policy DP1 of the Local Development Framework.

5.11 Consequently, notwithstanding the sustainable location and scale and form of the building it is considered that due to the specific location of the building and its relationship with adjacent buildings and uses, the adverse amenity and safety issues identified above justify refusal of planning permission.

## 6.0 RECOMMENDATION

6.1 That subject to any outstanding consultations the application is **REFUSED** for the following reasons:

1. The location and orientation of the building, the restricted light available, together with the lack of useable private amenity space are such that the creation of a residential unit would be contrary to the provisions of Local Development Framework Policies CP1, DP1 CP17 and DP32 which seek to ensure that all developments make provision for the basic amenity needs of residents and that the design is of the highest quality.
2. The site is in an area that suffers from anti-social behaviour that would be detrimental to the amenity and safety of occupiers of the proposed dwelling and the proposal is therefore contrary to the National Planning Policy Framework, particularly paragraph 58 and the Local Development Framework Policies CP1, CP17, CP20, DP1 and DP32.