



Report Reference Number: 2020/0773/FUL

To: Planning Committee
Date: 11 November 2020
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0773/FUL	PARISH:	Selby Town Council
APPLICANT:	Miss Rebecca Moore	VALID DATE: EXPIRY DATE:	20th August 2020 15th October 2020
PROPOSAL:	Change of use of a C3 dwelling house to a mixed use for a Class C3 dwelling house and Class E(f) childminding business		
LOCATION:	15 Cochrane Street Selby YO8 8DU		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as Selby District Council are the owners of the residential dwelling.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1. The application site is a residential dwelling, that is within a row of terrace properties within the defined development limits of Selby, which is a Principle Town as identified in the Core Strategy. The application site is located within Flood Zone 1.
- 1.2. The dwelling has its main vehicular access from Cochrane Street and benefits from a rear garden with a large, detached outbuilding. Furthermore, on street parking is available along Cochrane Street.

The Proposal

- 1.3. The proposal is for the change of use of a dwelling to mixed use for childminding business to operate from the property.

- 1.4. The proposed childminding business currently operates from the dwelling, and normally many small businesses do not require a change of use application to be submitted due to the numbers of children being under 6. Permission in this instance is required as the application plans to exceed this number of children on site. Small businesses like this are prevalent across the UK and provide a much-needed facilities to provide daytime care for local parents in order that they can access work opportunities.
- 1.5. Having discussed the proposals with the applicant, the intention is to gain consent for a maximum of eight children on site and one employee.

Relevant Planning History

- 1.6. There are no historical applications which are considered to be relevant to the determination of this application.

2. CONSULTATION AND PUBLICITY

- 2.1. **Selby Town Council** - Selby Town Council have raised no objections to the proposed development subject to consultation with occupants of neighbouring properties and also Environmental Health Department at the Local District Council.
- 2.2. **NYCC Highways** – NYCC Highways have raised no objections to the proposed development subject to a condition relating to a new and altered Private Access or Verge Crossing.
- 2.3. **Yorkshire Water** – No response received.
- 2.4. **Selby Area Internal Drainage Board** - The IDB have raised no objections to the proposed development subject to a number of standard informatives relating to soakaways, mains sewers, discharge into water courses, no obstructions within 7 metres of a water course and works adjacent a main river.
- 2.5. **Environmental Health** – Environmental Health have raised no objections to the proposed development.
- 2.6. **Neighbour Summary-** The application has been advertised by site notice and neighbour notification letter resulting in 3 letters of support being received. In summary the comments support the following:
 - The applicant provides support for the self employed
 - This is for a local service that supports working families
 - Suitable location as there is low traffic volume and noise
 - The applicant offers fantastic care
 - This kind of childminders is needed by many parents
 - No noise issues (comment provided from an address at 214 Abbots Road, Selby)

3. SITE CONSTRAINTS

Constraints

- 3.1. The application site is located within the defined development limits of Selby, which is a Principle Town as identified in the Core Strategy and is located within Flood Zone 1.

4. POLICY CONSIDERATIONS

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options has taken place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4. The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5. Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -
- 4.6. *"213....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

Selby District Core Strategy Local Plan

- 4.7. The relevant Core Strategy Policies are:
 - SP1 – Presumption in Favour of Sustainable Development
 - SP2 – Spatial Development Strategy
 - SP13 – Scale and Distribution of Economic Growth
 - SP15 – Sustainable Development and Climate Change
 - SP18 – Protecting and Enhancing the Environment

- SP19 – Design Quality

Selby District Local Plan

4.8. The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- EMP2 – Location of Economic Development
- EMP6 – Employment Development within Development Limits and Established Employment Areas
- T1 – Development in Relation to the Highway Network
- CS3 – Children’s Nurseries

5. APPRAISAL

5.1. The main issues to be taken into account when assessing this application are:

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Highway Issues
- Flood Risk, Drainage and Climate Change

The Principle of the Development

- 5.2. The proposal is for the change of use of a dwelling to mixed use for childminding business to operate from the property and the following policies are considered to be relevant.
- 5.3. Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favor of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.4. Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings about sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including (amongst other things) the re-use of existing building and infrastructure and the development of well-designed new buildings. In all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.5. EMP6 of the Selby Local Plan relates to Employment Development within Development Limits and Established Employment Areas and states that proposals within defined development limits will be permitted for new business development, including the change of use of land or premises subject to the following criteria:

EMP6 (A)

- 1) *There is no significant adverse effect on existing businesses;*
- 2) *The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity; and*

- 3) *The proposal would achieve a standard of design, materials and landscaping appropriate to the locality and would not have a significant adverse effect on the appearance or character of the surrounding area.*

EMP6 (B)

- 1) *The nature and scale of the proposal is appropriate to the locality;*
- 2) *The proposals would not prejudice the future comprehensive development of land; and*
- 3) *The proposal would not harm acknowledged nature conservation interests or result in the loss of open space of recreation or amenity value or which is intrinsically important to the character of the area.*

5.6. Policy CS3 of the Selby Local Plan states that proposals for the development of or change of use to a children's nursery will be permitted subject to a number of criteria, this includes:

- 1) *The proposal would be situated within the defined development limits or within existing school or college sites;*
- 2) *The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;*
- 3) *Adequate car parking, and an area for the setting down and collection of pupils off the highway is available, or the proposal is not situated close to a busy road junction or where peak hour loading restrictions are in operation; and*
- 4) *Adequate outdoor space for children's play is provided.*

5.7. The application site is located within the defined development limits of Selby and the proposal is for the change of use of a C3 dwelling house to a mixed use for a Class C3 dwelling house and Class E(f) childminding business.

5.8. A Planning Statement has been submitted with the application, which includes some of the following details:

- Work hours 07.00 until 18.00 all days of the week.
- Area's primarily to be used for childminding include downstairs facilities and garden area.
- A maximum of 8 children and one member of staff on site at any one time.

5.9. There is nothing within the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location.

5.10. The proposals are considered acceptable in principle and in respect of Local Plan Policy EMP6 (1), (2) and CS3. Where the proposed scheme may be acceptable in principle it would be required to meet the policy, tests set out in in Local Plan Policy EMP6 and CS3.

5.11. The impact on acknowledged interests against the above policy tests is considered in the following parts of the report, including the issue of scale.

Design and Impact on the Character and Appearance of the Area

- 5.12. Relevant policies in respect to the impact of development on character and appearance of the area are Policy ENV1 of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and advice contained within the NPPF. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.
- 5.13. The application site is located within a residential area and the dwelling is a mid-terrace property. The proposed use, therefore, has the potential to impact on the character of the area through increased activity on site generated by vehicle movements and noise from children inside and outside of the property. Having discussed the proposals with the applicant it is considered reasonable to agree a maximum of two employees (1 being the homeowner and applicant) and eight children on site at any one time. This can be secured by way of condition and limits the proposals impact on the residential character of the area.
- 5.14. The proposal also shows that the front garden area is to provide 2 off street parking spaces. Limited information has been submitted in this respect of. It is considered that it would be for the Local Highway Authority to determine the details of this, which is highlighted in the 'Impacts on Highway Safety' section of the report.
- 5.15. Having carried out a site visit it is evident that a number of properties along Cochrane Street have also carried out works form dropped kerbs and parking to the front of their properties, which would constitute permitted development in accordance with Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order as amended.
- 5.16. Overall, it is considered that the works to create a parking area to the front of the property are limited and would have not impacts on the character and appearance of the area.
- 5.17. In considering the above Officers consider it reasonable to secure the use on site to use Class C3 and use Class E(f) only and remove permitted development rights for changes to any other use within Class E. This is to ensure the property is not used for any other use within Class E, which would be inappropriate within this residential setting.
- 5.18. Having considered the scheme as a whole, the size, scale, siting, location and design of the proposed development, would be acceptable to its surroundings and would not have a detrimental impact on the character and appearance of the area. The proposal therefore complies with Policy ENV1, EMP6 A(3), B(1) and (3) of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and the NPPF.

Impact on Residential Amenity

- 5.19. Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to this Policy as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.

- 5.20. The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the new development.
- 5.21. It is also necessary to consider whether the use will cause harm by virtue of the noise from the children whilst playing outside and any potential issues arising from the mixed use of a dwelling house and childminders.
- 5.22. The existing dwelling is a mid-terrace property that fronts the highway, Cochrane Street and benefits from a garden area to the rear.
- 5.23. Given the existing use of the site as a C3 dwelling house it is not considered that the additional mixed use with a childminders would have any additional adverse impacts in respect of overlooking or overshadowing on the occupants of the neighboring properties.
- 5.24. In considering any impacts in respect of noise, it is noted that the applicant has advised that working hours for the childminders business are 07.00 – 18.00 all days of the week. It is also noted that the planning statement details that the number of children on site is regulated by Ofsted and calculated via the available floor space of the dwelling and number of employees. In summary, childminders may only care for a maximum of six children under the age of eight per employee. Having discussed the proposals with the applicant the intention is to gain consent for a maximum of two employees and eight children on site at any one time.
- 5.25. Having consulted the Environmental Health Team, the Environmental Health Officer has raised no objections to the proposals.
- 5.26. From a review of all relevant information it is considered that there is adequate open space for the children to play outdoors.
- 5.27. Officers consider that it would be reasonable to attach a number of conditions in order to control the intensity of the use and protect the residential amenity of neighbors. These conditions will relate to the following:
- Number of children on site at any one time to be limited to eight.
 - Number of employees on site at any one time to be limited to two.
 - Working hours of the childminders limited to 07.00 – 18.00 Monday to Friday; 08.00 – 13.00 Saturdays and not at all on Sundays, Bank and Public holidays.
 - Outdoor play limited to 09.00 – 18.00 Monday to Friday, 10.00 – 13.00 Saturdays and not at all on Sundays, Bank and Public Holidays.
- 5.28. Subject to aforementioned conditions, it is considered that the proposals would not have significant adverse effect upon adjoining residents in accordance with Policy ENV1, ENV2, EMP6 B(1) and CS3 (4) of the Selby District Local Plan.

Impact on Highway Safety

- 5.29. Relevant policies in respect to highway safety include Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy. These policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.

- 5.30. The proposal also includes works to construct a dropped kerb along the north boundary to the site to create an access into the site from the highway, Cochrane Street, to a proposed area of parking at the front of the property to fit two cars. The works to drop the kerb, would not require permission given its not a classified road, however this will increase the off street parking from 1 to 2 spaces.
- 5.31. NYCC Highways commented on the proposed development and have raised no objections subject to a condition relating to Private Access/Verge Crossings: Construction Requirements. The Highways Officer has also advised that an informative be attached stating that, a separate license will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out.
- 5.32. Overall, the proposals are considered to be acceptable in terms of highway safety and therefore comply with Policy EMP6 A(2) and CS3 (2) and (3) of the Selby District Local Plan and would be acceptable in respect of Local Plan Policy SP19 of the Core Strategy and policies contained within the NPPF.

Flood Risk and Drainage

- 5.33. Relevant policies in respect to flood risk include Policies SP15, SP19 of the Core Strategy, and paragraphs 149,150,155,156, 157, 158, 163 of the NPPF.
- 5.34. Firstly, addressing the issues of flood risk, the application site is within Flood Zone 1 which has a low probability of flooding. Given the application site is located within Flood Zone 1 and the proposals are not for a higher vulnerability classification than the existing use the Sequential Test and Exceptions Tests are not required.
- 5.35. In terms of drainage, the surface water from the existing building which the change of use is for does not need further control.
- 5.36. In considering the creation of the new parking area, given this area would front the highway and exceed 5 sq. meters this would be required to meet the following condition in order to be permitted development:
- “...either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.”*
- 5.37. Yorkshire Water and the IDB have been consulted on the proposals and raised no objections.
- 5.38. On the basis of the above the proposals are considered to be acceptable in terms of drainage, and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraph 163 of the NPPF.

6. CONCLUSION

- 6.0 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety or flood risk. The application is therefore considered to be in compliance with Policies ENV1 and T1 of the Selby District

Local Plan, Policies SP1, SP2, SP15 and SP19 of the Core Strategy and the advice contained within the NPPF.

7. RECOMMENDATION

7.1 This application is recommended to be GRANTED subject to the following conditions:

1. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

- LOC 01 - Location Plan
- LAY 02 – Planning Layout
- 03 – Existing Ground Floor Plan

Reason:

For the avoidance of doubt.

3. The development must not be brought into use until the access to the site at 15 Cochrane Street, Selby has been set out and constructed in accordance with the “Specification for Housing and Industrial Estate Roads and Private Street Works” published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number E5 and the following requirements.

- Any gates or barriers must not be able to swing over the existing or proposed highway.
- Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works must accord with the approved details.

Reason:

In accordance with policy T1 and T2 of the Selby Local Plan in the interests of highway safety and the general amenity of the area.

4. The working hours in connection with the childminding E(f) use shall be limited to the following hours:

- 07.00 – 18.00 Monday to Friday;
- 08.00 – 13.00 Saturdays; and
- Not at all on Sundays, Bank and Public holidays.

Reason:

To protect the residential amenity of the area.

5. The outdoor activities in connection with the childminding E(f) shall be limited to the following hours:

- 09.00 – 18.00 Monday to Friday;
- 10.00 – 13.00 Saturdays; and
- Not at all on Sundays, Bank and Public Holidays.09.00 and 18.00

No external activities shall take place within the application site outside the specified times.

Reason:

To protect the amenity of the area, the environment and local residents from noise pollution.

6. The number of employees and children on site in connection with the development hereby approved shall be limited as follows:

- Employees: 2
- Children: 8

Reason:

To protect the residential amenity of the area.

7. The premises shall be used only for a mixed use for a Class C3 dwelling house and Class E(f) childminding business and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason:

To protect the residential character of the area and the residential amenity of the area.

INFORMATIVES:

01. INFORMATIVE:

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

02. HIGHWAYS:

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be

pleased to provide the detailed constructional specification referred to in this condition.

Legal Issues

8.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

8.4.1 Financial issues are not material to the determination of this application.

9. Background Documents

Planning Application file reference 2020/0773/FUL and associated documents.

Contact Officer:

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Appendices: None