

**Application Recommended for Approval with
Conditions
Coal Clough with Deerplay**

FUL/2022/0420

Town and Country Planning Act 1990
Change of use from C3 dwelling house to a residential training centre (Use Class C2)

The Rookery Pasturegate Burnley

The application was deferred from Planning Committee on 13th October 2022, to enable more information to be provided in relation to the proposed use.

Background

The application site is currently in a C3 (dwelling house) use. It is a large, detached property located on Pasturegate, in Burnley. There is a private driveway and parking at the front of the property.



Fig1: Site Location Plan



Fig 2: The Rookery front elevation



Fig 3: Parking area within the site



Fig 4: Site Access

Proposal

The planning application relates to a change of use of the dwelling house to a residential training centre for 'Spitting Pig Co Ltd, who have their head offices in Burnley. The company runs a franchising company for the Hog Roast catering company. The company currently has 34 franchises throughout the UK and provide training and mentorship to the franchises providing back-office support.

Following the purchase of the franchise the franchisee is given residential training to ensure they are able to use the equipment and learn to provide a high-quality service. The agent has confirmed this training is not restricted to the cooking of the hog roasts but covers many other aspects of the business. Training is repeated at 12 monthly intervals. The change of use of this building is being applied for to allow the company to provide the mentorship and residential training in an appropriate building.

There are no proposed changes to the building externally, and parking is to be formalised in the area to the front of the house.

There would be a maximum of 6 franchisees on the site at any one time, along with the businesses staff.



Fig 4: Proposed Site Layout showing parking provision

Site history

None relevant

Relevant policies

Burnley's Local Plan (July 2018)

SP1 – Achieving Sustainable Development

SP4 – Development strategy

SP5 – Development quality and sustainability

EMP3- Supporting Employment Development

NE5 – Environmental protection

IC1 – Sustainable Travel
IC3 – Car parking standards

The National Planning Policy Framework

Consultation Responses

Highways: No objections to the application. However, it was noted by the Highways Authority that there is a concern regarding the access and the visibility when exiting on to Pasturegate. Further submission showing the visibility splay at the access is required. It should be measured from a point 5m back from the kerb edge to points 5m in each direction along the nearside kerb. Anything that falls within this splay shall be reduced in height to less than 0.9m, similarly any hedge overhanging the footway will need to be cut back to ensure adequate visibility from the driveway.

Following some further details from the applicant it has been confirmed to the Highway Authority that there will be no more than 6 trainees staying at the site at any one time with no residential element outside of the training period.

Should the Local Planning Authority wish to support the application the Highway Authority requests the following condition to be added to the decision notice.

a) 45° visibility splays (commercial access).

Before the access is used for vehicular purposes, 45° visibility splays shall be provided between the highway boundary and points on either side of the drive measured 5m back from the nearside edge of the carriageway. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.9 metres above the nearside carriageway level which would obstruct the visibility splay.

Ward Councillors: No comments received

Publicity: 14 number of objections have been received following publicity of the application. The objections received are summarised below:

- Sets a precedent for business to change the outlook of the street resulting in a retail/business area
- Impact on traffic and parking on the street
- Safety of the access onto the street parking within the curtilage would not be adequate to negate the need to park on the street
- Increase in deliveries to the site as a worry
- Trees and landscaping have been heavily cut back on the site prior to the submission of the planning application
- Cooking odours and fumes
- Impact on wildlife
- There is no detail in the planning statement in relation to the possibility of 'day case' trainees along with residential.
- Parking on the street would result in blocking access to ambulances to the 3 care homes already on Pasturegate
- Loss of value of properties
- Increase in noise and disturbance
- Consultation process has not been wide enough

Environmental Health: No objection in principle to the proposed development of the site, regarding noise, light, dust or odour nuisance, but would recommend the inclusion of a condition relating to the collection and dispersal of cooking odours.

Further clarification has been sought from the Council's Environmental Health Officer following the October 2022 Planning Committee in relation to the activity of cooking hog roasts and the impact this could have on neighbour amenity. The following comments were received:

'The odours from the hog roast barbecuing would have to be investigated under the provisions of the Environmental Protection Act 1990, so that officers could make a subjective decision as to whether the hog roasting forms either a statutory nuisance or prejudicial to health.

There are no studies that would provide firm evidence that hog roasting is prejudicial to health, so officers would have to investigate any odour issue to assess whether it could be classed as a statutory nuisance. This means that each case would be investigated on an individual basis.

Having looked at previous cases that could relate to hog roasting, it would be unusual for officers to decide that barbecuing in general would constitute a statutory nuisance- although in theory it is possible if the barbecuing is excessive. The factors that would be considered as part of any investigation would include:

- The type of odour
- The severity of odour
- Wind strength and direction
- Duration of the odour
- Time of day the issues occur
- How often the issue occurs

Complainants would need to complete diary sheets to provide evidence relating to the above factors as part of any investigation by Environmental Health.

It is therefore difficult to provide for specific conditions for the planning application in relation to commercial hog roasting. Could the applicant provide an odour assessment to support their planning application?

Alternatively, as a guideline, I would definitely not expect the hog roasting to be classed as a statutory nuisance if it only occurred once a week for around 3 hours and it provided that the site of the hog roasting was away from the boundary of the development. Would it be possible for the applicant to provide information relating to the siting of the hog roasting, and the number of times per week for the hog roasting, and the length of time this would last for?'

Principle of proposal

The site is an existing dwelling located within the development boundary of Burnley in which Policy SP4 applies. The National Planning Policy Framework (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development. The change of use of the property would be acceptable in principle, providing the proposal meets all relevant local and national planning policies.

The main issues in the consideration of this application are:

- Impact on residential amenity

- Traffic and highway safety
- Other matters

Impact on residential amenity

Amongst other things, Policy SP5 requires proposals to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users and occupiers. This is supported by the provisions of the National Planning Policy Framework. Objections have been received to the application in relation to cooking odours and fumes and an increase in noise and disturbance and a result of the change of use of the building.

Cooking odours and fumes: Following referral from the October Planning Committee the agent has clarified the position in relation to the hog roasts. The applicant has confirmed that the cooking of hog roasts will take place, one a month, with a likely duration of 8 hours, in the back garden. They will learn how to cook the hog roast as part of the programme of training and support.

There will be 2 x 13 kilo canisters of propane which will be stored appropriately in the garage. They have also confirmed that there is very little smell associated with the hog roasting machines, and if you are stood a few feet away you will not smell anything.

As noted in the consultation section of this report, the Council's Environmental Health Officer has provided further information in relation to how they would deal with any complaints in relation to odours generated from the process of the hog roasting. There is therefore existing legislation in place to deal with any matters in this regard, should they arise within the Environmental Protection Act 1990.

Officers are satisfied that the roasting of the hogs taking place in the back garden once a month would not cause a significant detrimental impact on the amenity of the neighbours to warrant a refusal of the planning application. To mitigate any concerns a condition is proposed to ensure that hog roasting is restricted to being in the back garden (with details of location to ensure it is away from the boundary), and how many roasts will take place per month. This has to be a reasonably worded condition and it is suggested that 4 x hog roasts a month could be the limit which would meet the tests of planning conditions set out in the National Planning Policy Framework.

These tests are explained in paragraph 55 of the NPPF which makes it clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. Necessary
2. Relevant to planning
3. Relevant to the development to be permitted
4. Enforceable
5. Precise, and
6. Reasonable in all other respects.

Each of these 6 tests need to be satisfied before a condition is used.



Fig 5: Hog Roaster

Noise and disturbance: The applicant has confirmed that the maximum people staying over in the centre would be 6 trainees at any one time. The house is currently a 6 bedroomed property which is very large in scale. It is not considered that 6 guests staying at the property in a training capacity would have a significantly detrimental impact on neighbours due to increased noise and disturbance from the existing use. Although there will be an additional 2-3 deliveries to the site per week when training is on twice a month, officers do not consider that this would be significant or detrimental in terms of noise and disturbance. There have been no objections to the proposed change of use from the Council's Environmental Health Officers. As such officers do not consider there is a significant detrimental impact on the amenity of neighbouring properties in this regard.

The proposal is considered to be acceptable in this regard and in accordance with the relevant local and national planning policy.

Traffic and highways safety

Policy IC1 of the Burnley Local Plan aims to ensure that proposals provide for safe pedestrian, cycle and vehicular access to, from and within the site. Policy IC3 is relevant as it aims to ensure adequate parking is provided. These policies are supported by the provisions of the National Planning Policy Framework, in which para 11 states 'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. Objections have been received in relation to access, parking and highway safety and the potential for emergency vehicles to be blocked from access along the street,

The applicant has submitted a site layout which indicated parking within the site for 8no cars at the front of the house. There is also a large garage at the rear with additional parking for at least 3no vehicles, this complies with the requirements of the Burnley Local Plan. Deliveries would come into the yard to drop off. The Highways Authority have not objected to this number of parking spaces and officers therefore consider it is adequate.

The Highway Authority have considered the proposal and have made no objection to the application. They have stated that there is some concern with regards to the access and visibility when existing onto Pasturegate. As such, to alleviate this concern they have

requested visibility splays to be submitted which will ensure that anything within the splay will be reduced to 0.9m and retained as such. Similarly, the hedge overhanging the highway will need to be cut back. The Highways Authority is satisfied this can be achieved. A suitably worded condition is included. They have confirmed that the use is not likely to have a high number of trips, and the wider 5m splay is sufficient for what is an access to a residential road. If it was just to be a household, they would not be able to reasonably ask for anything to improve the access. They consider that a 3 generational household could quite easily generate more daily trips than the proposed use. They confirm 'There is certainly not sufficient concern to warrant any objections from a highways perspective'. It is also noted that a maximum of 6no trainees will be on site at any one time, which correlates with the number of bedrooms in the house as detailed in the report above.

In relation to parking on the street resulting in a health and safety risk in terms of access to emergency vehicles, adequate parking is provided for the proposed use within the site and as such this is not raised as a concern by the Highways Authority.

In conclusion therefore, the objections raised to the application in this regard have been considered and officers consider that with the inclusion of the required condition from the Highways Authority, and in the absence of an objection from them, the proposal is acceptable in this regard and in line with the relevant local and national planning policy.

Other issues raised

- Sets a precedent for business to change the outlook of the street resulting in a retail/business area. This is not a planning consideration; each application is required to be considered on its own merits.
- Trees and landscaping have been heavily cut back on the site prior to the submission of the planning application – none of the trees within the site are subject to a Tree Preservation Order and as such any works to trees cannot be controlled by the Council.
- Impact on wildlife- any trimming and maintenance of trees and hedgerows is controlled by other legislation in terms of nesting birds and protected species. As such this is not considered a suitable reason to refuse the planning application.
- There is no detail in the Planning Statement in relation to the possibility of 'day case' trainees along with residential- there are no proposed day trainees and the company provide residential courses.
- Loss of value of properties – this is not a planning consideration
- Consultation process has not been wide enough – the council have consulted as required by legislation. 14 letters of objection were received, which implies people in the area were aware of the proposal as it has generated a high level of responses. Officers are satisfied their statutory duty has been met in this regard.

Conclusions

The impact of the change of use has been considered in relation to the matters discussed in this report and officers are satisfied that with the conditions listed in the report, the proposal is acceptable and in accordance with the relevant local and national planning policies.

Recommendation:

APPROVE subject to the following conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to 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 permitted shall be constructed in complete accordance with the specifications in the application and approved plans

Application forms

Existing Site Layout received 6th July 2022

Proposed Site Layout received 6th July 2022

Location Plan received 6th July 2022

Planning statement received 6th July 2022

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings.

3. Before the access is used for vehicular purposes for the use hereby approved, 45° visibility splays shall be provided between the highway boundary and points on either side of the drive measured 5m back from the nearside edge of the carriageway. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.9 metres above the nearside carriageway level which would obstruct the visibility splay.

Reason: To permit vehicles to pull clear of the carriageway when entering the site and to assist visibility, in the interests of highway safety.

4. Prior to the first use of the residential training centre (Use Class C2) hereby approved, a scheme for the collection and dispersal of cooking odours shall be submitted to and approved in writing by the local planning authority. The scheme shall include the technical specification and siting of any external ventilation ducting and/or plant. The kitchen extraction and ventilation system shall be designed to a standard such as the EMAQ guidance on the "Control of Odour and Noise from Commercial Kitchen Exhaust Systems", or equivalent, for the type of food outlet proposed. The approved scheme shall be implemented in full prior to first use and thereafter maintained in good working order at all times.

Reason: To minimise the risk of adverse impact on surrounding properties in accordance with Policies NE5 and SP5 of the Burnley Local Plan and the provisions of the National Planning Policy Framework.

5. Prior to the first occupation of the use hereby approved a scheme and programme shall be submitted which details the location of the roaster in the rear garden. The scheme and programme shall be strictly adhered to for the duration of the development. Hog roasting shall be restricted to the rear garden and a maximum of 4no roasts a month.

Reason: In the interests of residential amenity to prevent potential nuisance arising from the activities at the premises and to accord with policy SP5 (2g) of Burnley`s Local Plan.