

Case Officer: Chris Wright
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File No: CHE/20/00671/COU
Plot No: 2/1597

Item 1

Change of use of existing garage to salon facility and utility room at 7 Kirkdale Close, Chesterfield for Mr Ian Kirk-Ellis

1.0 **CONSULTATIONS**

Ward Members:	No comments received.
Local Highway Authority:	No objection subject to condition to limit staff and clients.
Forward Planning:	No objection subject to conditions linking business to the dwelling, restricting its use and PD rights.
Representations:	10 comments received objecting from the residents of 4 separate households.

2.0 **THE SITE**

- 2.1 The site is a two storey detached dwelling and is sited at the southern end of a cul-de-sac. The street is dominated by detached two storey dwellings. It is in a residential area and has housing to the north, east and west. There is a wooded area to the south.
- 2.2 The existing dwelling has an attached single garage to the southern side. It also has parking to the side of the dwelling for one vehicle and for 3-4 vehicles on the front driveway.
- 2.3 The dwellings on the street have 1-3 vehicular parking spaces. On-street parking is extremely limited.

Applicant's driveway



The street



The divide between the applicant's drive and no.26



3.0 **RELEVANT SITE HISTORY**

3.1 No relevant applications

4.0 **THE PROPOSAL**

4.1 It is proposed to convert the existing garage on site into a combined hair/beauty salon and utility area. The existing garage would be replaced with brickwork and windows to the front and a set of french doors to the side.

4.2 The applicant has stated that the intention is to complete works to the frontage to remove the soft landscaping and hard surface this area. It is proposed to have one member of staff, who is also residing at the dwelling. The opening hours would be 9am to 5pm Monday to Friday and 9am to 12pm on Saturdays. No external signage is part of the application.



4.3 The applicant confirms that they propose to have a maximum number of 6 customers a day.

5.0 **CONSIDERATION**

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy
- CLP2 Principles for Location of Development
- CLP9 Retail
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 National Planning Policy Framework (2019)

- Chapter 6: Building a strong, competitive economy
- Chapter 7: Ensuring the vitality of town centres
- Chapter 8: Promoting healthy and safe communities
- Chapter 12: Achieving well-designed places

5.4 Supplementary Planning Documents

- Designing Out Crime
- Successful Places' Residential Design Guide (2013)

5.5 **Principle of Development**

5.5.1 The Strategic Planning Team has comments on the proposal stating:

Approval is sought to convert a residential garage into a hair salon and utility room. Hair salons are typically considered to be an A1 use class, however from 1 September 2020, the A1 use class is treated as Class E. The adopted Local Plan does not contain policies specific to operating a business from home.

A hair salon is considered to be a main town centre use (as defined in Annex 2 of the NPPF) and therefore a sequential test would normally need to be applied as set out in the NPPF (Para. 86) which states that Local Planning Authorities “should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan”. The NPPF (Para. 81d) states that policies should “be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances”. In these circumstances the need to support the recovery from the impacts of the current pandemic is a material consideration.

As the application site is within walking distance of the Derby Road North local centre, the proposal would support the aim of Policy CLP1 to concentrate new development within walking and cycling distance of centres. With regards to CLP2 the proposal broadly accords with criteria b, e and f. The site is a ten minute walk from the local service centre and bus routes and therefore accords with criteria (d). The extent of any wider regeneration and sustainability benefits is limited, but overall there is a strong degree of accord with Policy CLP2.

Given the small scale nature of the proposed use, connection with the dwelling and the current economic circumstances it would be inappropriate to ask for a sequential test for this application. It would however be reasonable to apply a condition to any grant of planning permission restricting the use to only operate in conjunction with the residential dwelling. As the proposed use is below the floorspace threshold set out in Policy CLP9 an impact test will not be required.

A good standard of amenity for all existing and future occupants of land and buildings is a core planning principle of the NPPF. Policy CLP14 requires that all developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, while policy CLP22 seeks to mitigate any impacts upon the highway.

Running a business from the property is acceptable in principle providing it is linked to the main use as a dwelling and any impacts upon amenity or the highway can be mitigated through the use of suitable conditions. It would also be appropriate to remove the PD rights restricting the permission to a salon as additional uses are unlikely to be appropriate in this location.

Officer comment

5.5.2 With regards to CLP1 and CLP2 the officer agrees that the proposal is within reasonable walking distance of a centre (Derby Road North). The main use of the site will remain as a dwelling and the proposal will be ancillary to this use. It is within walking distance of a local centre which will help to ensure there is some capacity for sustainable travel by customers however the majority of customers are expected to travel to the site via car, and the highway safety aspect will be assessed elsewhere in this report.

5.5.3 Due to the small scale nature of the business and its linkage to the existing dwelling the principle of the business is considered to be acceptable, subject to condition.

5.6 **Residential Impact**

5.6.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. This is taking into account “*noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts)*”.

- 5.6.2 In terms of overlooking, overshadowing and massing the proposal has no impact on surrounding residents.
- 5.6.3 The proposed scheme could lead to an increased amount of traffic into the street from non-residents, but this issue is considered further in the highway safety section.
- 5.6.4 The business use would have potential increased levels of noise from its use, but it would have closed doors and windows and the proposed use is not noisy, so any increased levels should be contained within the site and would be to acceptable householder levels.
- 5.6.5 On this basis the proposal is considered to accord with the provisions of policy CLP14 of the Local Plan and doesn't have a significant impact in terms of residential amenity.

5.7 **Design and Visual Impact**

- 5.7.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.
- 5.7.2 The proposal would lead to the change of the front of the garage from a garage door to a glazed and brick frontage; this is considered to be acceptable as long as the works are completed in a sympathetic manner to the existing dwelling utilising matching materials and window size and styles.

5.8 **Highways Issues**

- 5.8.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety. The Highway Authority has commented as follows:
It is indicated that up to 7 No. cars could be accommodated on the site frontage, taking into account landscape works that are currently taking place (it is noted that this would be loose material which is not recommended for parking spaces). I trust that you will ensure that the level of off-street parking to serve the existing dwelling and development proposals satisfies the requirements of

your own Authority's standards as any under provision may result in vehicles being parked within the turning head of Kirkdale Close thereby negating it for its designated use. Please note that, in order to comply with current guidance, off-street car parking spaces should have minimum dimensions of 2.4m x 5.5m although the width should be increased by 0.5m for each side where the space is bounded by a wall, hedge, fence, line of trees or similar. There is concern with the parking layout as submitted in that, as shown, a number of vehicles could be 'blocked' in potentially leading to additional movements to/ from the public highway.

The space down the side of the house appears tight but the Highway Authority may be prepared to accept a single space at this location such as the vehicle belonging to the person operating the salon.

Subject to the above, there are no objections to the proposal and it is recommended that the following conditions are included in any consent.

- 1.No persons shall be employed at the premises.*
- 2.The salon shall be operated by the occupier of No. 7 Kirkdale Close only.*
- 3.There shall be no advertising hoarding outside the premises.*
- 4.The salon shall be operated by appointment only with a maximum of two clients at the salon at any one time.*
- 5.Prior to the salon being taken into use, the applicant shall submit and have approved, in writing, by the Local Planning Authority a revised off-street parking layout with spaces measuring a minimum 2.4m x 5.5m clear of any shared area. The approved scheme shall be provided and the spaces thereafter maintained free from any impediment to their designated use for the life of the development.*
- 6.There shall be no gates or other barriers on the access/driveway.*

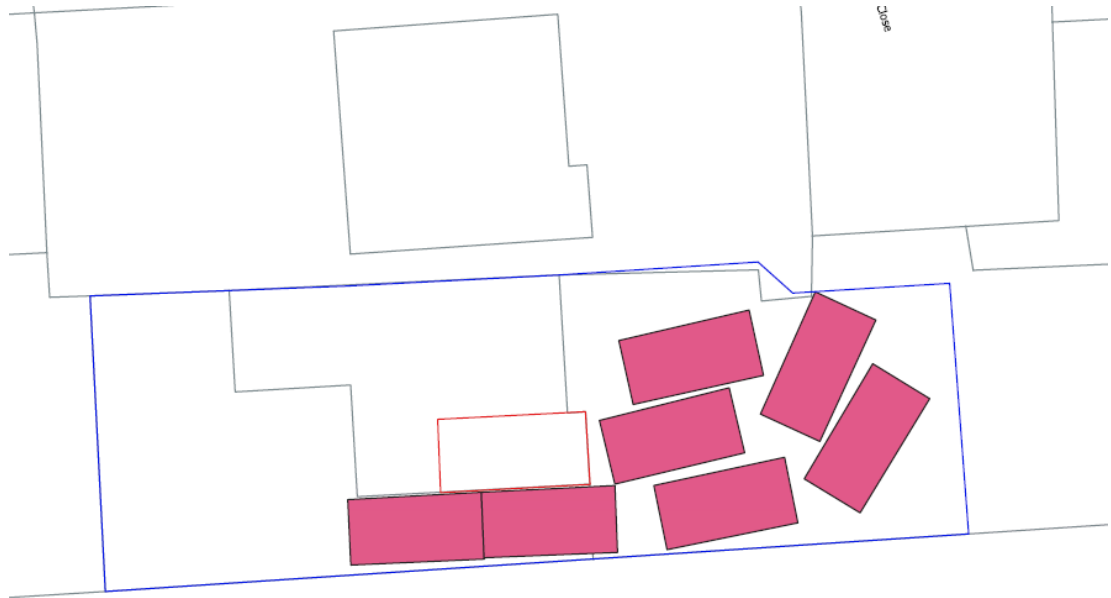
5.8.2 Several objections have been received by the Council in relation to the scheme. Amongst the comments there the following opinions were expressed:

- the lack of pavements on the street means that the street is sensitive to proposed changes such as this one, as there isn't a safe pedestrian-vehicular divide.
- the proposed parking on site would require vehicles to be moved around to work and that they wouldn't be standalone spaces.
- There was also a general perception that the introduction of a business use onto the street was a bad idea and would bring an increased number of non-residents drivers to the street, who do not fully understand the road layout.

5.8.3 Some issues that the officer observed when visiting the street and looking at the proposal were that:

- the garage is below the current guidelines for parking spaces in garages (6m by 3m), so was unlikely to be used for parking medium to larger vehicles,
- the area to the side of the house was also narrow (below 2.5m in width) and has two solid boundaries (a fence and garage wall) so exiting and entering vehicles would be difficult; this means that residents would be unlikely to park there if utilising a car regularly. It is also less than 8m in length and has decking to the rear, so this area would be below the standard length required for the easy parking of two standard-sized vehicles (4.8m x 2 = 9.6m).
- The proposal includes French doors to the side, which is presumed is to be the new entrance way in to the salon – this makes it unlikely that vehicles would be parked in this space, as then there wouldn't be any easy access into the business. As a maximum, 1 vehicle could be parked in this space, to the rear of this area. Notwithstanding this the plan below is submitted by the applicant to demonstrate that the site can accommodate 7 parking spaces.
- The site shares an open area to the front of the dwelling with no.26 (other than a section of hedge) which is likely to allow some space for manoeuvring by either residents of either dwelling if required. If this space is utilised by business customers on a regular basis this is could be unneighbourly.
- The resident is considering removing an area of grass and vegetation from the front of the dwelling to make the driveway area bigger. This area includes a lamppost, which would prevent the expansion and easy manoeuvring of the residents and customers.

- The proposed parking situation is not considered to be based on the reality of how new customers would use the site. The officer considers that as a maximum 2 additional safe parking spaces are possible/likely, once safe manoeuvring is taken into account.



5.8.4

It is considered that the street is sensitive to a large influx of new drivers, as there is very little capacity for on-street parking and due to the lack of pavements in the area. The turnover of customers in particular is considered to be the worst case period, which could lead to a negative impact on the surrounding vicinity. The applicant has stated that they wouldn't have more than 6 customers per day, but this would be as a maximum. The worst-case scenario would suggest that this number of customers per day would be too high in terms of its impact on residential amenity and highway safety. Whilst this is the case, it is also considered that some level of business use could occur if undertaken in a considerate manner. Although a temporary permission wasn't requested by the applicants, it is considered that a temporary permission, with strict conditions to limit customer flow and numbers and staff numbers could be acceptable, and that if the business use wasn't acceptable in terms of residential amenity that this could be re-considered at a later date given the experience of how the business operates over a temporary period. It is considered that conditions could limit the staff numbers to 1, and that this should be a resident of the dwelling only, and that 2 customers per day should be the limit, with 1 customer at time and a 10 minute gap in-

between customers. This would restrict and control the perceived impact of the proposal in terms of residential amenity and highways safety. On this basis the revised proposal could be considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

5.9 **Biodiversity**

5.9.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

5.9.2 During the application the applicant was asked to provide additional information in relation to biodiversity measures on site. The applicant has offered to include 2 bird boxes and a bug hotel, which is considered to be acceptable. They provided some further details in their email and drawing of 12/11/20, which were considered to be acceptable in this regard. Any additional work would be completed after construction finishes on site.

5.9.3 The proposed development is considered to be a minor development and does not result in the loss of an existing species rich habitat area. Some level of biodiversity net gain is considered to be necessary to accord with policy CLP16 of the Local Plan and the NPPF, therefore a planning condition will be attached to any decision issued to ensure the application provides the agreed biodiversity net gain measures, as a result of the proposed development. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

6.0 **REPRESENTATIONS**

6.1 10 comments received to object to scheme from the residents of 4 separate households; these were 20, 22, 24 and 26 Kirkdale Close. Their objections include the below issues:

- Highway safety – increased traffic to street, no pavement on street, proposed parking on site would require vehicles to be moved around to work
- Residential amenity – the street isn't suitable for business use and the proposal could lead to increased vehicular use like a business.
- Visual
- Negative impact on perceived security on the street
- Devaluation of surrounding properties
- Increased traffic could impact access for an elderly person
- Existing covenant in place to restrict business use of dwellings.

6.2 ***Officer comment – the issues regarding covenants and devaluation are not planning matters and cannot be assessed in this report. The issues of highway safety, residential amenity and visual amenity are considered in the above report.***

7.0 **HUMAN RIGHTS ACT 1998**

7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2019 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

9.0 **CONCLUSION**

9.1 The proposal does not alter the primary use of the site as a residential unit, as it will be ancillary to the main dwelling and the sole employee will reside there. The location of the proposed development site is appropriate, as it is well served by public transport, and is in close proximity to amenities. A temporary permission with strict conditions to limit the proposed use ensures the proposal can be approved and would be in accordance with the Local Plan and revised NPPF, in terms of residential amenity and highway safety. There are no other material considerations of sufficient weight to warrant a determination not in accordance with the Local Plan and revised NPPF. As such, this application is considered to comply with the requirements of policies CLP2, CLP14, CLP20 and CLP22 of the Local Plan 2018-2035 and the revised National Planning Policy Framework.

10.0 **RECOMMENDATION**

10.1 That the application be **GRANTED** subject to the following conditions:

1. The use hereby permitted shall cease within 24 months of the approval of the planning application, unless another planning permission has been granted for a further period.

Reason - In the interests of assessing the impact of the scheme on highway safety and residential amenity in relation to policies CLP14 and CLP20.

2. The business use of the property shall only be operated within the room previously defined as the garage, as per the plans provided titled "proposed layout".

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

3. The business shall be operated by the applicant only and only whilst resident at the application address. No other persons shall be employed at the site.

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

4. The business shall be operated on an appointment only basis and there shall be no more than 2 customers per day, with each customer coming separately with a minimum of 10 minutes between appointment times to avoid overlapping of clients and increased parking demand.

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

5. The parking currently available within the site curtilage shall be maintained free from any impediment to its designated use for the life of the development.

Reason - In the interests of highway safety and residential amenity in relation to policies CLP14 and CLP20.

6. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, and The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting these Orders with or without modifications) , the premises shall be used as a beauty / hair salon only and for no other purpose, including any other activity within the same class of the schedule to that Order.

Reason - In the interests of the amenities and highway safety of the occupants of adjoining dwellings, in relation to policies CLP14 and CLP20.

7. Within 2 months of the completion of the development hereby approved, the proposed biodiversity measures (2 bird boxes and a bug hotel) shall be implemented on site (as per the email and drawing received 12/11/20). These measures shall be retained and maintained thereafter in accordance with the scheme so approved.

Reason - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework.

11.3 Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. In accordance with condition 7, appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:
 - bird/owl/bat boxes

(Locating your nestbox:
Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.

The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.

Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)

(Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)

- biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats
- measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance