

# **PLANNING COMMITTEE**

**7 JUNE 2022**

## **APPLICATION FOR CONSIDERATION**

**REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION**



<b>Application Number:</b>	<b>0011/2022</b>
<b>Development:</b>	<b>Change of use from C3 dwelling to C1 boarding/guest house (retrospective)</b>
<b>Location:</b>	<b>3 Mickleton, Stonydelph, Tamworth, B77 4QY</b>

## **1. Introduction**

- 1.1. This application was requested to be called in by Cllr S Doyle (Stonydelph) by email on 23 February 2022 citing the following concerns:
- Issues raised by local Residents already occurring in around the Property;
  - As a result there has been a relatively high number of complaints / objections by surrounding Residents
  - Also the current Local Plan does not cover this particular item, making a decision difficult to reach, so would benefit from a review by Peers and decision take in Committee
  - Also it would appear that there has been an issue in contacting the Residents that are most effected by this application and have not had time to respond
- 1.2. This is a retrospective application for the change of use of 3 Mickleton, Stonydelph, Tamworth, B77 4QY from use class C3 (Residential dwelling) to use class C1 (Hotel including guest house). It does not include any physical alteration of the property.
- 1.3. The dwelling has been in use without planning consent previously being sought as a guest house, marketed through AirBnB since January 2020. The use of this dwelling as a guest house was first brought to the Council planning enforcement officer's attention in July 2020. Following further complaints, the applicant was informed that a planning application had to be submitted, or to revert to C3 dwelling use. Failure to do any of these options would result in formal enforcement action being taken.
- 1.4. The property is located at 3 Mickleton, a residential cul de sac within Stonydelph, comprised mainly of four bedroom detached properties. The location is such that it backs on to Marsett and following receipt of the application seven neighbouring properties on Mickleton and Marsett were advised by consultation letter of the proposal.
- 1.5. The property remains advertised on the AirBnB website as being a four bedroom detached house with a self check in process and rules in respect of the use of the facility, check in after 1500, check out at 1100, no smoking, no pets, no parties or events and no shoes in the house. Until recently it was advertised as having a capacity of ten guests. It is now advertised as having a capacity of six guests.

## **2. Policies**

### 2.1 Local Plan 2006-2031 Policies

SS1 - The Spatial Strategy for Tamworth  
SS2 – Presumption in Favour of Sustainable Development  
EC5 – Culture and Tourism  
EN5 - Design of New Development  
SU2 – Delivering Sustainable Transport  
SU5 - Pollution, Ground Conditions, and Minerals and Soils  
Appendix C – Car Parking Standard

### **3. Relevant Site History**

T22220	CONSTRUCTION OF 60 DETACHED DWELLINGS AND ANCILLARY SITEWORKS.
T22617	ERECTION OF 60 DETACHED HOUSES AND ASSOCIATED ROADS, SEWERS AND OPEN SPACE
T22636	ERECTION OF 60 DETACHED HOUSES AND ASSOCIATED ROADS, SEWERS AND OPEN SPACE
T22637	ERECTION OF 60 DETACHED HOUSES AND ASSOCIATED ROADS, SEWERS AND OPEN SPACE

### **4. Consultation Responses**

- 4.1 Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at <http://planning.tamworth.gov.uk/northgate/planningexplorer/generalsearch.aspx>
- 4.2 Tamworth Borough Council Environmental Protection: - noted that with the exception of one complaint received, (referred to in the application; Complaint regarding 'Hen Party' July 2020), there have been no other recorded complaints.

They have advised that the 'measures now in place', listed on page one of the Planning Statement submitted, become conditions of operation to be included in the permission if granted.

### **5. Additional Representations**

- 5.1 As part of the consultation process adjacent residents were notified by letter.
- 5.2. A total of fifteen letters of objection have been received in respect of this application and 3 letters in support of the proposal. The letters of support are from local businesses which provide services to the applicant at the property and from a resident of Marsett which overlooks the site.
- 5.3 The letters of objection have raised concerns about the continued use of the property as an AirBnB property due to allegations of various forms of anti-social behaviour by guests and concerns over car parking. The anti-social behaviour allegations largely relate to excessive noise within and external to the property. The consistency of topics raised by objectors from properties surrounding the dwelling has been notable and would suggest that the concerns raised are widely shared locally.

### **6. Equality and Human Rights Implications**

- 6.1 Due regard, where relevant, has been taken to the Tamworth Borough Council's equality duty as contained within the Equalities Act 2010. The authority has had due regard to the public sector equality duty (PSED). Under section 149 of the Equality Act 2010, a public authority must in the exercised of its functions, have due regard to the interests and needs of those sharing the protected characteristics under the Act, such as age, gender, disability and race. This proposal has no impact on such protected characteristics.
- 6.2 There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act, regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the determination of this application.

### **7. Planning Considerations**

The key issues to be considered at this stage are

- Principle of the proposed change of use
- Amenity impact of the proposed development
- Parking considerations

## 7.1. Principle of the proposed change of use

- 7.1.1 Changing use between use classes is an established form of development and in the case of the proposed change from C3 Dwelling House to C1 Hotel and guest house is not allowed for by means of permitted development rights and therefore is subject to a planning application. Policy SS2 Presumption in favour of sustainable development states that *“any proposals for development that are in accordance with policies in this plan and are sustainable will be granted planning permission without delay”*.
- 7.1.2 The General Permitted Development Order makes provision for changes of use as forms of permitted development from C3 to C4 which would permit a maximum occupancy of 6 residents in a house of multiple occupation. There is no limit to the number of occupiers within C3 use which is normally regarded as being for a single household.
- 7.1.2 Policy EC5 Culture and Tourism states that planning applications which deliver a vibrant cultural and tourism economy which will help improve the quality of life of residents and visitors will be supported. As a result of this, there is a principle of acceptance for increasing the quantity of short-term accommodation for visitors to the area.
- 7.1.2 Policy EN5 Design of New Development is relevant to this application in respect of noise and car parking. Part G of the policy states, “Minimise or mitigate environmental impacts for the benefit of existing and prospective occupants of neighbouring land. Such impacts may include loss of light, privacy or security or unacceptable noise, pollution, flooding or sense of enclosure.” Part H of the policy states, “Pay particular regard to highway safety and servicing requirements, the capacity of the local road network and the adopted parking standards set out in Appendix C.
- 7.1.2 Whilst the principle of residential use is acceptable; a C1 use has further considerations beyond a single dwelling as indicated below.

## 7.2 Amenity Impact of the Proposed Development

- 7.2.1 The change of use of 3 Mickleton from C3 to C1 has already been implemented without approval and the amenity outcomes for residents surrounding the dwelling have been articulated by objectors. The amenity impacts have generally arisen from some guests behaving in a manner which has caused disturbance to neighbours or by neighbours being impeded by car parking associated with the property.
- 7.2.2 On the one occasion reported to Tamworth Borough Council Environmental Protection in July 2020 and from the previously unreported events where parties have been held that have resulted, that disturbance to neighbours has occurred and remains an ongoing concern. The amenity concerns are therefore not due to physical development but how the dwelling has been used. Key factors in this have been the advertising of the property as being suitable for ten guests and the use of the integral garage as a games room. Advertising the property in such a way has emphasised its appeal to users who seek a property for a large number.
- 7.2.3 Consequently the use of the property by large groups of up to ten people for leisure purposes, particularly when groups are external to the property or within the integral garage that will have lower levels of sound proofing than the main part of the dwelling has had amenity impacts on neighbours.
- 7.2.4 When considering the original issues posed by the change of use, the applicant has been asked to make a number of concessions and measures to reduce the potential impact on amenity this use may have. This includes:
- Ensuring the maximum number of guests permitted is to not exceed six at any one time.
  - The requirement of the applicant to keep a register of all guests accommodated and make it available following any reasonable request from the Local Planning Authority
  - Ensure the garage is to be retained as a garage and made available at all times to guests for the parking of a car

As a result of these measures, it is considered that the quality of life of residents would be improved if the amenity impacts of the proposal were reduced to a level that could be thought of as being not

dis-similar to the level of impact that the site would have in its current use class designation of C3 residential dwelling, the measures above seek to do this.

In conclusion, subject to the imposition of robust conditions to mitigate the concerns raised the proposal will not have a significant impact upon residential amenity and conform to policies EC5 and EN5 of the Tamworth Local Plan and the National Planning Policy Framework. The conditions will provide for better management of the site overall.

### **7.3 Parking**

7.3.1 Tamworth Local Plan Policy EN5 h) states that new developments will be expected to pay particular regard to highway safety and servicing requirements, the capacity of the local road network and the adopted parking standards set out in Appendix C. This is also reinforced in policy SU2 Delivering Sustainable Transport.

7.3.2 Appendix C of the Tamworth Local Plan states that for a C1 (hotel) use there should be spaces at a rate of 1 per bedroom. Therefore, for a property with four bedrooms this should provide four spaces.

7.3.3 Within the garage, one space at measurements of 3m x 6m internally (thereby complying with current Design Supplementary Planning Document guidance) and two externally in front of the garage are provided with this proposal.

7.3.2 Originally, it had only the two external car park spaces available to guests as the garage has been in use as a games room. The applicant has stated in the supporting statement to withdraw use of the garage as a games room and instead make it available for guest parking. The removal of the use of garage for any purpose other than the parking of cars will facilitate the parking of three cars at the property.

7.3.3 Although 3 Mickleton has four bedrooms, three of which are classed by the applicant as double rooms and the fourth as a single room, there are only three car park spaces practically available at the property.

7.3.4 The capacity of six guests would still enable the property to be let out to users but would address the majority of concerns raised by neighbours about anti-social behaviour stemming from use by large groups and excessive car parking as the maximum number of cars anticipated would be restricted compared to previous activity on site.

7.3.6 Whilst the proposal would not meet the parking standards, the deficiency of one on site (which could be accommodated on the unrestricted parking nearby) is considered not have a severe impact upon highway safety. As a result of this, the proposal would accord with EN5 of the Tamworth Local Plan and the NPPF.

## **8 Conclusion**

8.1 The proposed retrospective change of use from C3 residential dwelling to C1 guest house does not benefit from any permitted development rights and therefore requires planning permission to be undertaken. The proposed change of use has the potential if allowed to do so to create significant amenity issues for the residents around the property but this can be mitigated by the imposition of planning conditions as set out below.

8.2 The change of use of residential dwellings to hotels is well established in the Borough and is considered to meet the policy ambitions of encouraging visitors to the town with the economic benefits that this can generate to the local area.

8.2 There is scope to permit the application without creating undue levels of amenity impact in accordance with Policy EN5 Design of New Development and Policy SU2 Sustainable Transport of the Tamworth Local Plan through restricting the maximum number of guests to a level that would not be dissimilar to a potential household in size and other uses as set out in Class C1 as set out above. These uncontrolled uses could equally impact on local amenity issues.

8.3 The considerations are finely balanced and it is proposed therefore with the stringent measures in place controlled by conditions, the application is recommended for approval.

**8 Recommendation**

Approval with conditions

**Conditions / Reasons**

- 1 The development hereby permitted shall only be carried out in accordance with the application form and Location Plan serial number 107904 submitted unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To define the permission.
- 2 The maximum number of guests permitted at the dwelling is to not exceed six at any one time throughout the life of the development  
Reason: To minimise harm to neighbor amenity in compliance with Policy EN5 Design of New Development and Policy SU2 Sustainable Transport of the Tamworth Local Plan 2006-31.
- 3 A written register must be kept of all guests accommodated and make it available following a reasonable request from the Local Planning Authority, to ensure compliance with the maximum permitted number of guests  
Reason: To minimise harm to neighbor amenity in compliance with Policy EN5 Design of New Development of the Tamworth Local Plan 2006-31.
4. The garage is to be retained for the purposes of a garage only and no other use shall be permitted in the garage and it shall be made available at all times to guests for the parking of a car, for the lifetime of the development.  
Reason: In the interests of ensuring sustainable parking in accordance with Policy SU2 Sustainable Transport and in minimizing harm to neighbor amenity in accordance with Policy EN5 Design of New Development of the Tamworth Local Plan 2006-31.