

Tonbridge **559712** **4 December 2015** **TM/15/03844/FL**
Castle **147425**

Proposal: Change of use from use Class C3 (residential) to mixed use C3 (residential) and D2 (yoga studio)
Location: 35A Yardley Park Road Tonbridge Kent TN9 1NB
Applicant: Mr Guy Edwards

1. Description:

- 1.1 Planning permission is sought for a permanent change of use of a residential dwellinghouse to a mixed use of residential (Use Class C3) and Yoga Studio (Use Class D2). This application follows an earlier 1 year temporary permission (TM/14/03533/FL), granted in January 2015, for the change of use of the dwellinghouse to a mixed use of residential and Yoga Studio; this earlier application was granted on the basis of an initial 1 year 'trial period' in order to demonstrate that the yoga studio use did not give rise to harm to surrounding residential amenity. The applicant is understood to have been operating his yoga classes from the property site since permission was granted in late January 2015.
- 1.2 The Yoga Studio is located within the pitched roof space above a garage which was granted planning permission in 2005 (TM/05/03550/FL) as an extension to the main dwellinghouse. The studio room has sloping ceilings and French doors with a Juliet balcony in the rear gable end.
- 1.3 The yoga classes operate with a maximum of 6 customers per session, with the applicant (Mr Edwards) as the sole tutor. Up to 6 customers per session is the maximum number that the studio could reasonably hold, taking into account its physical floorspace and sloping ceilings. The yoga classes last approximately 90 minutes in duration.
- 1.4 As well as seeking permission on a permanent basis, this application seeks to extend the operational hours of the Yoga Studio, above and beyond that granted with the earlier temporary permission, to include weekday evenings. It is now proposed that yoga classes would be held between the following times:
 - Monday to Friday 09:00 to 21:00 hours;
 - Saturdays 09:00 to 13:00 hours; and
 - No classes on Sundays, Bank or Public Holidays.
- 1.5 During the first year of operation, the applicant has found that the time restrictions imposed on the temporary permission (limiting weekday classes to cease at 15:00 hours) has limited his prospects of offering yoga classes to potential day-time/commuter customers, with the exception of a Saturday morning class which has tended to be over-subscribed. By allowing evening classes, which could take

TM/03/03351/FL Grant With Conditions 16 March 2004

Conversion of integral double garage to kitchen and construction of replacement detached double garage

TM/05/03550/FL Grant With Conditions 11 January 2006

Single storey garage and utility room extension with new stair access to bedroom and bathroom in attic space, conservatory and new entrance porch

TM/14/03533/FL Approved 26 January 2015

Change of use from use class C3 (residential) to mixed use C3 (residential) and D2 (yoga studio)

5. Consultees:

5.1 KCC (H+T): The proposals are not considered to result in a significant increase in traffic and adequate parking provision is provided within the site. For these reasons, raise no objection subject to the provision and permanent retention of vehicle parking spaces and turning facilities shown on the submitted plans prior to the use of the site commencing.

5.2 Private Reps: (12 + site notice: 0X/8R/0S). 8 individual representations have been received from 5 surrounding residential properties. The key points of objection are as follows:

- Excessive traffic volumes and obstructions caused by car parking by the clients of the yoga studio business on Yardley Park Road, creating inconvenience and danger to local residents and other road users;
- Existing yoga clients do not park within the application site but instead park inconsiderately within Yardley Park Road;
- Extending the opening hours (into the evening) will only exacerbate problems with parking;
- Concerns with the permanent establishment of a commercial business within a residential area. This also sets a precedent for other business-type activities within residential properties;
- There must be a lot of available D2 space in and around Tonbridge that could accommodate this type of facility – this would have better parking, facilities and transport links;
- Concerns with the narrow (shared) approach to the application property and lack of practical parking spaces in front of it;

- Express concerns about future permitted development rights associated with the development;
- Concerns raised about the vulnerability of the public sewer located almost immediately beneath the driveway if traffic over the access road were to increase in volume and/or weight;
- White lines should be placed at the entrance to neighbouring residential dwellings (fronting onto Yardley Park Road) to deter inconsiderate parking, and in turn reduce the risk of future accidents; and
- There is a restrictive covenant on the property that prevents trade or business being carried out from the site.

6. Determining Issues:

- 6.1 Firstly, this application follows an earlier (1 year) temporary permission granted to the applicant to offer yoga classes from a studio within his dwellinghouse (TM/14/03533/FL). It is understood that yoga classes have been held by the applicant from the property since late January 2015, with an intensity of somewhere in the region of 1-2 yoga classes per weekday and on a Saturday morning. Records indicate that this level of activity has not resulted in any complaints to the Council to date.
- 6.2 TMBCS Policy CP24 sets out general criteria for all new development, including a provision that development must respect the site and its surroundings, and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by MDE DPD Policy SQ1 which states that all new development proposals should protect, conserve and where possible enhance the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views. A change of use application such as this would need to be considered against these principles.
- 6.3 The key issues for consideration in the determination of this application are the impact on the character of the area by way of the increased activity, and associated noise and traffic movements and how these impact on the amenities of neighbouring householders.
- 6.4 With regard to the principle of this continued change of use, it would not result in the loss of a residential unit. The resulting use would be a mixed residential and yoga studio use and, as was the case with the earlier temporary permission, the loss of one bedroom space within the property would not affect the residential use of the dwelling. I am satisfied that the two uses could not be operated as independent units in the future, ensuring that the property remains as one planning unit.

- 6.5 The applicant has submitted a parking plan which demonstrates that up to 6 yoga students' cars could be parked on the large area of hardstanding to the front of the property, whilst a further 2 spaces would be available within the integral garage for use in connection with the main residential dwelling. I consider that the submitted parking layout would not be practical in reality as it would involve tandem parking and cars blocking each other in with little room to manoeuvre; however, the applicant has provided photographs showing multiple vehicles parked within this area. The informal parking layout does rely on a high degree of cooperation by yoga students when entering, exiting and manoeuvring within the site. That said, there is nevertheless sufficient space within the site for the residents of the dwelling and a number of yoga customers to park on site. It must also be noted that there are no yellow lines or other parking restrictions on the main Yardley Park Road and therefore yoga customers would be within their rights to park on the main road as an alternative to driving down the applicant's access drive to spaces in front of the dwelling. This is, of course, no different to any other vehicles which are able to park legally in Yardley Park Road with no restriction.
- 6.6 KCC (H+T) has confirmed it has no objections to the proposed arrangements on site or the potential for increased on street parking as a result of the continued yoga use. Whilst I note the highway safety concerns expressed by residents, based on the intensity of the proposed use and the views of the Highway Authority, together with the current parking situation within Yardley Park Road, I do not consider there to be an unacceptable highway impact that could be sufficient to recommend refusal of this continued yoga studio use in this location. In reaching this decision, I am mindful of the advice contained in paragraph 32 of the NPPF whereby development proposals should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe [*my emphasis added*].
- 6.7 The continued use of the yoga studio itself would not create any unacceptable noise or disturbance to neighbouring properties, as I note that yoga is inherently not a noisy activity. It is also understood that there have been no complaints (in noise or disturbance terms) to the Council during the preceding 12 months that the applicant has been operating his yoga studio use from his property. The activity associated with the yoga studio however, such as the arrival and exiting of customers, could have an impact on surrounding residential properties, and therefore consideration must be given to the acceptability of the proposed extension to previous operating hours to include weekday events until 21:00 hours.
- 6.8 The yoga classes could accommodate a maximum of 6 students at any one time, but there would be a number of classes throughout the day. In my view, the level of activity generated by the continued running of yoga classes from the property would not be so harmful as to justify a refusal of permission on the grounds of harm to amenity. I am mindful that during the preceding 12 months there have been no complaints to the Council relating to noise or disturbance matters arising

from yoga classes, and I have no reason to conclude that extending the yoga class times to include weekday evenings (up until 21:00 hours) would result in such significant harm to surrounding residential amenity as to justify the refusal of permission in this instance.

- 6.9 Being mindful that this is a residential neighbourhood, and taking into account the proposed extended operational times during weekday evenings, I consider it to be reasonable to recommend that a further 12 month temporary permission be given so as to allow the opportunity to review the situation in respect of extended opening times in a further 12 months' time. In my view this is an entirely reasonable approach, given the fairly unique set of circumstances that exist in this particular case. Moreover, whilst the NPPG states that it will rarely be justifiable to grant a second temporary permission, in these specific circumstances where the operational parameters (i.e. the proposed hours of use) are being changed, it is reasonable to allow a further temporary "trial run" period.
- 6.10 Similar to the approach taken with the earlier temporary permission, it would also be entirely reasonable and necessary in this case to make any grant of permission personal to the applicant (Mr Guy Edwards). By doing so, this would enable the Planning Authority to safeguard its position in respect of the non-residential use of the site should the site be disposed of by the applicant at any point in the future.
- 6.11 The grant of permission for continued yoga classes from the property would not set any precedent for other business uses in nearby residential properties as each case would need to be assessed on its own merits. As with the earlier temporary permission, it is considered necessary to limit the use of the studio room within the property for solely yoga activities and no other planning uses within the wider D2 (assembly and leisure) use class.
- 6.12 Any obstruction to the vehicular access to the site from service vehicles, concerns surrounding the deterioration of the private access road, or restrictive covenants on the property preventing business use, would all be civil matters and not material planning considerations that could affect the determination of this application. The applicant has also confirmed that he owns the private driveway to No. 35A from Yardley Park Road as this ownership had been questioned; although it is noted that the owners of No. 35 have a right of way over this driveway (to access their garage).
- 6.13 It has been suggested that the Council should give consideration to white lining outside nearby residents' driveways to deter inconsiderate parking and, in turn, reduce the risk of potential future accidents. As concluded in paragraph 6.6 above, there is no severe highway impact that could justify the refusal of planning permission for these proposals. Furthermore, it would not be possible for the Planning Authority to secure white lining, or indeed other forms of parking controls, within this locality as a result of this minor development proposal.

6.14 In conclusion, I am satisfied that the continued use of the yoga studio would not give rise to an unacceptable highway safety or parking impact, and that it would be reasonable in these circumstances to impose a further temporary 12 month temporary permission on the basis of the extended yoga class times during weekday evenings.

6.15 On this basis, together with the imposition of a number of other operational controls as included on the earlier temporary permission, I consider the proposals to be acceptable and I therefore recommend accordingly.

7. Recommendation:

7.1 **Grant Temporary Planning Permission** in accordance with the following submitted details: Certificate A dated 04.12.2015, Letter dated 01.12.2015, Planning Statement dated 01.12.2015, Location Plan dated 01.12.2015, Site Plan Parking dated 01.12.2015, Proposed Floor Plans dated 01.12.2015, Supporting Information dated 01.12.2015, subject to the following conditions:

Conditions

1. The D2 Yoga Studio use hereby permitted shall be discontinued on or before 1 March 2017.

Reason: In the interests of amenity.

2. The premises shall be used for a mixed residential and yoga studio use only and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes Order 1987), or in any provision equivalent to that Class in any statutory instrument amending, revoking and re-enacting that Order.

Reason: In the interests of neighbouring amenity.

3. The use hereby permitted shall be carried on only by Mr. Guy Edwards.

Reason: To prevent any use independent from the main dwelling in the interests of neighbouring amenity.

4. The Yoga Studio use hereby permitted shall be limited to a maximum of 6 students per class.

Reason: In the interests of neighbouring amenity.

5. The D2 Yoga Studio use shall not be carried on outside the hours of 09:00 to 21:00 hours Monday to Friday and 09:00 to 13:00 hours Saturday with no working on Sundays, Public or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of neighbouring amenity.

6. The area shown on the submitted layout as vehicle parking spaces shall be retained. Thereafter they shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without the provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

Informative

1. The applicant is strongly encouraged to ask his yoga clients to ensure they park in a sensible and sensitive manner within the site, so as to minimise disturbance and inconvenience for neighbouring residential properties.

Contact: Julian Moat