

<b>APPLICATION NO.</b>	<a href="#">P22/S3242/FUL</a>
<b>APPLICATION TYPE</b>	FULL APPLICATION
<b>REGISTERED</b>	13.9.2022
<b>PARISH</b>	HORSPATH
<b>WARD MEMBER(S)</b>	Sam James-Lawrie
<b>APPLICANT</b>	Mr Peter Cranston
<b>SITE</b>	77 Gidley Way Horspath, OX33 1RG
<b>PROPOSAL</b>	Partial conversion of existing garage into facility as kitchen area for catering business 'Cranston Pickles Ltd'. (As amplified by odour assessment received 5 July 2023).
<b>OFFICER</b>	Kim Gould

1.0 **INTRODUCTION AND PROPOSAL**

- 1.1 This report sets out the justification for the recommendation to grant planning permission having regard to the development plan and other material planning considerations. This application is referred to planning committee because Horspath Parish Council object to the development and the officer recommendation is to grant planning permission.
- 1.2 No 77 Gidley Way is a two-storey detached property located on the northern side of Gidley Way within a line of residential properties within the built-up limits of Horspath. The building line is staggered with both neighbouring properties sitting forward of number 77.
- 1.3 A plan identifying the location of the site can be found at **Appendix 1** to this report.
- 1.3 Horspath lies within the Oxford green belt.
- 1.4 The property has a single integral garage which projects forward of the front elevation of the main dwelling. This garage measures 3 metres x 5.3 metres. Part of the garage has been converted to provide a kitchen area to serve a pickling business “Cranston Pickles” which is run by the applicant’s daughter. The remainder of the garage is used for general domestic storage of tools and bikes.
- 1.5 This application seeks retrospective planning permission, to convert part of the existing single garage for use as a commercial pickling business.
- 1.6 Reduced copies of the plans accompanying the application are attached as **Appendix 2** to this report. All the plans and representations can be viewed on the council’s website [www.southoxon.gov.uk](http://www.southoxon.gov.uk) under the planning application reference number.
- 1.7 The application has been amended to include an Odour Assessment. A copy of the Odour Assessment is attached as **Appendix 3**.

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

2.1 Horspath Parish Council – **Initial comments – Objection** – noise and smell coming from the property will be uncomfortable for the neighbouring properties.

**Subsequent comments** following receipt of the Odour Report – **Objection** – the Parish Council maintain the previous objection on the grounds that the noise and smell coming from the property will be uncomfortable for the neighbouring properties. Councillors do not agree with the odour assessment, and it does not meet the criteria requested by the EPO.

**OCC Highways Liaison Officer** – No objection.

**Env. Protection Team** – Initially requested an Odour Assessment to assess the impact of the pickling business on the neighbours.

Following receipt of the Odour Assessment – No objection subject to condition requiring the recommendation for filters and pre filters within the Odour Assessment to be installed.

**Neighbours Objection (2)**

- The business is already operating illegally.
- The applicant describes the business as a Pickling factory.
- The factory is immediately adjacent to our dining and living room with windows looking onto the site entrance.
- We see and hear the noise and pollution which destroys our privacy.
- Cooking going on outside opening hours often at weekends and evenings.
- We have to keep our windows closed.
- Waste food disposal is not adequate leading to rat infestations.
- Adverse impact on the character of the area.
- It is a rural area not an industrial site.
- No reference to future scale of the business.
- The company provides full meals to restaurants and market venues.
- Contributes to traffic and parking issues on Gidley Way.
- Cranston Pickles should be operating from an industrial outlet.

Following receipt of the Odour Assessment

**Neighbours Objection (2)**

- Not a full, independent, and impartial report.
- Does not take account that the business is already established and has been scoped by the applicant.
- Offensiveness of odour is subjective.
- The pickling smells linger yet have been given a low significance score.
- The kitchen and extraction flue are immediately adjacent to 79 Gidley Way.
- The kitchen may be small, but the frequency of cooking is high.
- The business has an unacceptable impact on neighbours.

- A full assessment of the odour can only be made by a visit during cooking times.

**Neighbours No Objection (1)**

- We live next door to the application site at no 14 Gateley and support the application.
- We have lived adjacent to the property for 17 months and have not experienced any disturbance in relation to noise, traffic or smells.
- Small, local businesses are at the heart of the local communities, and they will only thrive if locals support them and make full use of them.

**3.0 RELEVANT PLANNING HISTORY**

**3.1 [SE21/270](#) -**

Without planning permission, the material change of use of land from residential to a mixed use of residential and business use

[P20/S3140/HH](#) - Approved (29/10/2020)

Replace existing garage flat roof with a pitched roof.

**4.0 ENVIRONMENTAL IMPACT ASSESSMENT**

**4.1 N/A**

**5.0 POLICY & GUIDANCE**

**5.1 Development Plan Policies**

South Oxfordshire Local Plan 2035 (SOLP) Policies:

DES1 Delivering High Quality Development

DES2 Enhancing Local Character

DES6 Residential Amenity

DES8 Promoting Sustainable Design

DES9 Renewable Energy

EMP10 Development in Rural Areas

ENV12 Pollution – potential sources of pollution

ENV3 Biodiversity

STRAT1 The Overall Strategy

STRAT6 Green Belt

TRANS5 Consideration of Development Proposals

**5.2 Neighbourhood Plan**

Horspath Neighbourhood Area was formally designated on 24 August 2016. The parish council has started the process of gathering evidence and engaging with the local community. This is to give the plan a direction and draft policies that will form the neighbourhood plan.

**5.3 Supplementary Planning Guidance/Documents**

South Oxfordshire and Vale of White Horse Joint Design Guide 2022

**5.4 National Planning Policy Framework and Planning Practice Guidance**

**5.5 Other Relevant Legislation**

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application, the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

**6.0 PLANNING CONSIDERATIONS**

**6.1 The relevant planning considerations are the following:**

- **Principle of development**
- **Green Belt policy**
- **Principle of development Rural employment policy**
- **Design and character**
- **Residential amenity/Odour**
- **Access and parking**
- **Intentional unauthorised development**

**6.2 Principle of development**

There is no objection in principle to some businesses being run from a residential property where there is no material change in use. Common examples of these are beauticians, child minding and small office-based enterprises. In this case, due to the potential impact on neighbours from the pickling process, it is officers' opinion that a material change of use has occurred and that full planning permission is required.

**6.3 Green Belt policy**

The village of Horspath lies within the Oxford Green Belt where there is a presumption against inappropriate development. Policy STRAT6 of the SOLP seeks to restrict development within the boundaries of the Green Belt to those which are deemed appropriate by the NPPF.

6.4 Paragraphs 149 and 150 of the NPPF define those developments which are not inappropriate. The re-use of buildings is listed as development which are not inappropriate provided that they are permanent and of substantial construction. This proposal involves internal alterations only to an existing building. As such it does not have any material impact on the purposes of including land in the Green Belt and is therefore acceptable in Green Belt policy terms.

**6.5 Rural employment policy**

Policy EMP10 of the SOLP supports the growth and expansion of all types of business and enterprise in rural areas through the conversion of existing buildings.

6.6 Paragraph 84 of the NPPF advises that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. Paragraph 85 advises that sites which are physically well-related to

existing settlements should be encouraged where suitable opportunities exist. This site lies within the built-up limits of Horspath so is well related to the settlement. As such the principle of the development is acceptable in employment policy terms.

- 6.7 Whether a particular business is acceptable in a residential area depends on fact and degree. In this case, the size of the premises being used for the business is modest – part of a single garage only. There is only one employee, the applicant's daughter, so the scale of the business is also considered to be modest.
- 6.8 The objections received from some neighbours and the Parish Council relate to the nuisance caused by the pickling business predominantly from odour. This is considered in detail in paragraph 6.10 of this report.
- 6.9 **Design and character**  
Policy DES2 of the SOLP seeks to ensure that development proposals take account of the local character and existing features. The pickling business is run from part of a single garage at no 77 Gidley Way. The original garage door has been replaced with a single pedestrian door giving access to the business premises with another smaller door providing access for the domestic storage. A flue has been installed in the pitched roof of the garage which extends beyond the ridge. Visually, this is no more prominent than a flue serving a domestic log burning stove. The conversion of garages to other uses such as habitable accommodation is not unusual and the conversion itself has no material adverse impact on the design or character of the area in my opinion. In my view the proposal accords with policy DES2 of the SOLP.
- 6.10 **Residential Amenity**  
Policy DES6 of the SOLP seeks to ensure that development proposals do not result in significant adverse impacts on the amenity of neighbouring uses by way of, for example, loss of privacy, noise, odour and visual intrusions.
- 6.11 In this case, the garage existed prior to the business operating from the premises. Under planning application ref P20/S3140/HH, the original flat roof was replaced with a pitched roof. Further physical alterations to the garage include the replacement of the original garage door with a pedestrian door and the insertion of a flue in the roof
- 6.12 These physical alterations to the building do not result in significant adverse impact on neighbour amenity in your officers' opinion.
- 6.13 The key concern from the neighbours and the Parish Council is the odour from the pickling operation. A formal Odour Assessment has been submitted with the application to fully assess the impact from odour generated during the cooking process from the extraction system on neighbours.
- 6.14 The Odour Assessment concluded that there should not be a loss of amenity to neighbours providing that the system recommended within the Odour

Management Plan (OMP) contained within the Assessment is implemented. The recommendations of the OMP are set out below

7.3 To minimize the risk of complaints, it is recommended that:

- A visual inspection of the ventilation system be carried out at least once a week. All metal surfaces should be checked to ensure that there is no accumulation of grease or dirt and that there is no surface damage;
- Cooker hoods and grease filters should be cleaned on a daily basis;
- The cleaning period for mesh filters should be at least twice a week;
- Cleaning period for extract ductwork should as follows:

Use	No. hours use per day	Minimum cleaning interval
Heavy use	12-16	Every 3 months
Moderate use	6-12	Every 6 months
Light use	2-6	Annually

7.4 Based on the information provided, it is likely that the premises will be of Light use and should be cleaned at least every 6 months.

- Periodic 'deep hygiene cleaning' should be undertaken by a specialist contractor. All accessible main ductwork runs and branches, including fitted equipment should be inspected and cleaned;
- All fans are to be maintained on a regular basis as recommended by the fan manufacturer; and
- Ventilation grilles, where fitted should have easily removable cores to facilitate cleaning.

**Recommendations for maintenance of odour control system**

7.5 Fine filtration and carbon filtration;

- Change fine filters every two weeks
- Change carbon filters every 4 to 6 months

7.6 Daily cleaning keeps the filters working at their optimum efficiency and will greatly reduce the number of service visits required throughout the year.

7.7 It will be important that the odour control methods are fully implemented and additionally, that the proposed OMP management measures and frequency of servicing is complied with. With respect to the servicing and maintenance regime, audit and service records should be maintained and made available to the Local Authority on demand.

Subject to the OMP recommendations, the business would not result in a statutory nuisance in my view. The Assessment also recommends that the extraction system is properly maintained on a regular basis to prevent odour from becoming an issue in the future.

6.15 The council's EPO has raised no objection to the application subject to a condition being added to any planning permission requiring the existing kitchen extraction system to be fitted with filters recommended within the Odour Assessment report.

**6.16 Access and parking**

Policy TRANS5 of the SOLP seeks to ensure that all development has a safe access and exit onto the highway network. In this case there are no proposed alterations to the existing access off Gidley Way. There is off street parking on the property for 2-3 vehicles. The applicant uses a small van in association with the pickling business. The applicant has confirmed that customers do not visit the property. The applicant delivers the produce to the retail outlets. As such, the business use does not generate any material additional traffic movements other than the van.

6.17 The County Highway Liaison officer has not raised any objection to this development on highway safety grounds. He considers that the development would result in a relatively modest increase in vehicular numbers which is unlikely to adversely impact the highway significantly. The site has a number of parking spaces on the frontage which are unlikely to be impacted by the development.

**6.18 Intentional unauthorised development**

The planning system allows for retrospective planning applications to be made under S.73A of the Town and Country Planning Act 1990 (as amended), thus undertaking development without the relevant planning permission of itself is not a breach of planning control. The NPPF also advises that formal enforcement action, should not be taken simply to regularise unauthorised development.

6.19 However, DCLG published a planning policy statement (31/08/2015) on green belt protection and intentional unauthorised development. This policy statement noted that “intentional unauthorised development”, could be a material planning consideration, highlighting concerns with regards to development undertaken without planning permission. In particular the fact undertaking unauthorised development does not give opportunity to appropriately mitigate harm already taken place and can result in expensive, time-consuming action. Appeal cases have shown it is unlikely that this reason alone could be enough to refuse planning permission, or take enforcement action, but that it can be considered with other material considerations. In this case however I conclude that it does not present a reason in isolation to refuse planning permission. The partial conversion of the existing domestic garage has not, in my opinion, resulted in unacceptable planning harm. The recommendation of approval for the change of use would have been the same if it had been entirely proposed and not part retrospective.

**6.20 Community Infrastructure Levy**

The development is not CIL liable

**7.0 CONCLUSION**

7.1 Your officers recommend that planning permission is granted because the principle of running a small business from a domestic property is acceptable. The key concern from some neighbours and the Parish Council is the adverse impact on neighbour amenity by way of odour from the pickling process. The council’s Environmental Protection Officer is satisfied that subject to upgraded

filters being installed within the existing extraction system, the development will not result in significant adverse impacts on the neighbour amenity. There are no objections on highway grounds. As such there are no technical reasons to refuse the application. Subject to the recommended conditions, the development accords with Development Plan policies and Government advice.

**8.0 RECOMMENDATION**

**To grant Planning Permission subject to the following conditions**

**1 : Approved plans**

**2 : That within one month of the date of this decision the kitchen extract system shall be fitted with the filters and maintained as specified in chapter 7 of the odour control report reference NALPRO050523.01 by Noise Assessments Ltd dated July 2023.**

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