

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00483/CPL	Majid Mir	15 August 2023

Address: 77 Church Street Littleborough OL15 8AB

Proposal: Certificate of lawfulness for proposed change of use from office (Class E) to taxi booking office (Sui.Genisis)

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	Y
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	REFUSE
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CHECKED AND SIGNED OFF BY: RG

DATE: 18 August 2023

SITE

The application relates to 77 Church Street, A two storey mid-terraced property. The property appears to have been used as an office for a solicitors. The application property is located within Littleborough Town Centre and Littleborough Town Centre Conservation Area. The property fronts onto the pavement to the front. Church Street is part of the busy A58 and is a part of the strategic highway. Directly to the front are double yellow lines which prevent any vehicles from parking in this busy location. There are parking bays on the opposite side of Church Street which have time restrictions.

The application property is adjoined to a hot food takeaway at number 75 Church Street and a taxi booking office at 79 Church Street.

The plans suggest the first floor of the building is used as storage and a bathroom for the office. Additionally, it is noted that it may have been used as residential flat however, there is no planning history in relation to this.

PROPOSAL

The application seeks a Lawful Development Certificate for the proposed use of the building as a taxi booking office (Sui Generis).

NATIONAL GUIDANCE

National Planning Practice Guidance (NPPG)

Burden of Proof

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (PPG Paragraph: 006 Reference ID: 17c-006-20140306)

LEGISLATION

Town and Country Planning Act 1990 (as amended)

The Town and Country Planning (Use Classes) Order 1987 (as amended)

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("the UCO Amendment Regulations")

RELEVANT SITE HISTORY

07/D49589

Change Of Use From Offices To Hot Food Takeaway.

Decision: Refuse.

Reason for refusal: This application relates to premises which are situated within a vibrant town centre shopping area which provides a variety of local shops and services. There are already a number of hot food takeaways in close proximity to

the premises in question, and any further development of such uses is likely to begin to change the character of the area to one which is less mixed and more concentrated on evening rather than daytime trade. This undermining of the character of the centre would be contrary to the provisions of policy S/10 - Food and Drink Outlets - of the Council's adopted Unitary Development Plan.

08/D50583

Change Of Use From Offices To Hot Food Takeaway - Resubmission D49589.

Decision: Refuse.

Reason for refusal: This application relates to premises which are situated within a vibrant town centre shopping area which provides a variety of local shops and services. There are already a number of hot food takeaways in close proximity to the premises in question, and any further development of such uses is likely to begin to change the character of the area to one which is less mixed and more concentrated on evening rather than daytime trade. This undermining of the character of the centre would be contrary to the provisions of policy S/10 - Food and Drink Outlets - of the Council's adopted Unitary Development Plan.

22/01280/FUL

Change of use from office (Class E) to taxi booking office (Sui-Generis).

Decision: Refuse. Reason for refusal:

1. The application site lies in close proximity to a number of residential properties. The activity associated with the proposed opening hours would lead to noise and disturbance late into the night and early morning that would be significantly harmful to the amenity of the nearby residential occupiers. Therefore, the proposal is contrary to Policies DM1 and G9 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.
2. No off-street car parking facilities over which the applicant has full control are proposed and as such insufficient parking for the taxi booking office has been provided. Church Street is a part of the strategic highway and there is limited allocated parking on this part of Church Street. Picking-up and waiting outside the taxi booking office will interrupt the free flow of traffic and have a detrimental impact on road safety. The applicant property is also adjacent to an existing taxi booking office and there are existing highway safety problems on this section of Church Street caused by taxis parking and waiting outside the existing taxi booking office. The addition of another taxi booking office would exacerbate the existing highway safety concerns and therefore would have a detrimental impact upon the function and safety of the highway on a busy strategic highway. The proposal is therefore contrary to Policies DM1 and T2 of the adopted Core Strategy and the National Planning Policy Framework.

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In accordance with the Council's Code of Publicity, this application has not been publicised.

ANALYSIS

S.55 of the Town and Country Planning Act 1990 sets out:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land

In respect of changes of use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 sets out "Where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land."

In assessing this application, it is necessary to understand the existing lawful use of the building proposed to change use in addition to the use class which the proposed use would fall in to. Where the existing and proposed use do not fall within the same use class, it is necessary to subsequently consider whether the proposed use would have a materially different impact on the environment and local amenities.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision is based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

The Use Classes Order was updated and amended on the 1st September 2021 and the former B1 Class (along with a number of other use classes) has been replaced by a new use class, Class E. This new use includes;

- ☐ E(a) Display or retail sale of goods, other than hot food
- ☐ E(b) Sale of food and drink for consumption (mostly) on the premises
- ☐ E(c) Provision of:
 - o E(c)(i) Financial services,
 - o E(c)(ii) Professional services (other than health or medical services), or
 - o E(c)(iii) Other appropriate services in a commercial, business or service locality
- ☐ E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)
- ☐ E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- ☐ E(f) Creche, day nursery or day centre (not including a residential use)
- ☐ E(g) Uses which can be carried out in a residential area without detriment to its amenity:
 - o E(g)(i) Offices to carry out any operational or administrative functions,
 - o E(g)(ii) Research and development of products or processes

- o E(g)(iii) Industrial processes

The site is presently used as an office which falls under the new Use Class E. However, a taxi business or a business for the hire of motor vehicles is specifically excluded from any Use Class by reason of Article 3(6)(f) of the Use Classes Order 1987. Therefore a taxi booking office is identified as Sui Generis. The application proposes a change of use of the application site from an office (Use Class E) to a taxi booking office (Sui Generis). This is considered to not be permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015. The proposed development would amount to development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) (material change in use) and as such would require planning permission (Section 57 of the Act).

No detailed information has been provided with the application. The application form states that 'the booking office is better classed as a call centre operated by one person delegating the jobs to drivers on the operating system'. No further information has been provided on how the operations from the site will be run. Additionally, the plans suggest that the site may be accessed by members of the public with a desk at the front.

The applicant noted previous application 21/01160/CPL (Application for a certificate of lawfulness for the proposed use as a private hire operating centre) where it was deemed that the use as a private hire operating centre fell within the scope of use class E. It is however noted that the application proposed that the site would only provide administrative support functions associated with a private hire taxi firm. The site would provide an office only function for administrative/regulatory purposes and only open to internal employees and as such there would be no access for drivers and/or customers and cars would not operate from the site. The officer concluded that the proposal would fall under the scope of Use Class E.

Furthermore, it is noted that application 18/00796/CPL (Application for a certificate of lawfulness for proposed Class B1 office use for an app-based ride hailing service for private hire vehicles) and 21/01169/CPL (Application for a certificate of lawfulness for the proposed use as a private hire operating centre) concluded that both the proposed uses fell under Use Class E. However, as with planning application 21/01160/CPL, the application proposed that these two sites would only be for administrative/regulatory purposes. Additionally, there would only be access for internal employees and no access for customers or drivers. Thus concluding that the proposed use would fall under Use Class E.

It is accepted the existing use of the building as an office and therefore identified as being within Use Class E. The application states that the proposed use would be a taxi booking office (Sui Generis) and not a use as identified above that falls within Use Class E. Therefore based upon the information provided, the proposal falls within the definition of development under Section 55(1) of the Town and Country Planning Act 1990. The proposed use would not be permitted under the provisions of Section 55(2)(f) of the 1990 Act and therefore the use requires planning permission.

RECOMMENDATION

The change of use of the application site from an office (Use Class E) to a taxi booking office (Sui Generis) would fall within the definition of development under Section 55(1) of the Town and Country Planning Act 1990 (as amended). The proposed use would not be permitted under the provisions of Section 55(2)(f) of the Town and Country Planning Act 1990 (as amended) and therefore the use requires planning permission. Planning permission has not been granted by the Local

Planning Authority or by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).