

# COMMITTEE REPORT

---

### APPLICATION DETAILS

---

<b>APPLICATION No:</b>	DM/19/00930/PNC
<b>FULL APPLICATION DESCRIPTION:</b>	Prior notification for change of use from offices (Use Class B1(a)) to 8 residential units comprising of 7 one bedroom apartments and 1 two bedroom apartment (Class C3).
<b>NAME OF APPLICANT:</b>	Mr Darren Butt
<b>ADDRESS:</b>	1 Kensington Bishop Auckland DL14 6HX
<b>ELECTORAL DIVISION:</b>	Woodhouse Close
<b>CASE OFFICER:</b>	Hilary Sperring, Planning Officer, 03000 263947, hilary.sperring@durham.gov.uk

---

### DESCRIPTION OF THE SITE AND PROPOSALS

---

1. The application site, is a vacant three storey corner property last been occupied by the Social Services Department on the junction of Cockton Hill Road with McIntyre Terrace. The building is not listed but lies within the Cockton Hill Conservation Area. There are a number of commercial premises located in the Kensington Terrace and Cockton Hill Road however the area is predominately residential in character.
2. A Prior Notification Application has been submitted to determine whether the Prior Approval of the local planning authority is required for the proposed change of use at 1 Kensington, Bishop Auckland from offices (Use Class B1(a)) to 8 residential units comprising of 7 one bedroom apartments and 1 two bedroom apartment. Submitted plans show that 3 flats would be created on the ground and first floors and 2 within the top floor which includes the roof space. In addition, bin storage and cycle storage are proposed to the rear of the property. No car parking provision is proposed.
3. The application is being reported to the Planning Committee at the request of Councillor Tucker following residents concerns regarding highways, the added number of vehicles, speeding and also parking. This area recently had a 20mph limit introduced and parking in the area is a constant problem as there are 2 schools and numerous businesses in the area.

---

### PLANNING HISTORY

---

4. A separate planning application is also currently being considered for proposed cladding, new doors, windows and external alterations in connection with the proposals at 1 Kensington (DM/19/00926/FPA).
5. A previous planning permission relates to the inclusion of a fire escape to the rear of the building (3/1977/0500).

---

## PLANNING POLICY

---

### NATIONAL POLICY

6. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
7. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.

*NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

*NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

*NPPF Part 5 – Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.

*NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

*NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located

where the need to travel will be minimised and the use of sustainable transport modes maximised.

*NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

*NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

*NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

*NPPF Part 16 - Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

#### **LOCAL PLAN POLICY:**

8. The development plan is the Wear Valley District Local Plan saved policies. Assessment of the application against policies contained within the Wear Valley Local Plan are not required as part of the Prior Notification Procedure.

#### **RELEVANT EMERGING POLICY:**

9. The County Durham Plan
10. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

## **STATUTORY RESPONSES:**

11. *Bishop Auckland Town Council*:- consider that the application should be refused on the grounds of: -

Insufficient parking to support the creation of 8 residential units. There is no provision for additional parking within the site to support the development. The development would therefore create additional pressure on current on-street parking provision from occupiers and visitors, which could lead to highway safety issues. There are existing parking issues in the area.

Layout and density of the development. There is an over development of the building which seeks to create the maximum number of units in the available space, leading to poor design. There is insufficient amenity space within the site to support the high density of the development. The high density of the development will have an adverse impact on current on-street parking provision.

12. *Environment Agency* – No response received.

13. *Highways Authority* - No objection

## **INTERNAL CONSULTEE RESPONSES:**

14. *Environmental Health Contaminated Land*: No adverse comments to make, no requirement for a contaminated land condition
15. *Environmental Health Nuisance*: Initially requested a condition requiring the submission of a Noise Assessment

## **PUBLIC RESPONSES:**

16. The application has been publicised by way of site notice and individual notification letters to neighbouring residents.
17. Councillor Tucker has requested that the application be considered by Committee following concerns from residents relating to concerns regarding highways and parking issues outlined above.
18. 8 letters of objections have been received to the proposals. Objections relate to:

Insufficient and inadequate parking currently in the area close to the application site and also in the wider locality, for residents and also pressures from commercial users parking and leaving vehicles all day. Parking problems have been increasing over recent years and the proposals will exacerbate existing difficulties. Proximity of the site to nearby schools and traffic congestion during school and business hours. Safety issues for children walking to school. There have been numerous road traffic incidents in the area, speeding and the proposals will add to highways safety issues and risk to lives.

Queries also relate to who will occupy the apartments / nature of the occupation of the proposed units and that there is no shortage of properties in the area.

Existing problems of anti-social behaviour, vandalism and police visits to the area, which could be exacerbated.

Concerns that neighbouring properties will be overlooked.

Pedestrian hazards from wheelie bins.

**APPLICANTS STATEMENT:**

19. This statement is submitted on behalf of the applicant, Mr Darren Butt, in support of the Prior Notification Application for the Change of Use from Offices (Use Class B1a) to Residential (Use Class C3) at 1 Kensington, Bishop Auckland, Durham, DL14 6HX.
20. It is of note that development under Class O of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 as amended is allowed subject to the determination as to whether prior approval of the local authority will be required in respect of the following:
  - (a) transport and highways impacts of the development,
  - (b) contamination risks on the site,
  - (c) flooding risks on the site,
  - (d) impacts of noise from commercial premises on the intended occupiers of the development
21. Under this legislation (the GDPO) only these issues can be considered in determining whether prior approval is required for the proposed development.
22. Following submission of the application, six representations have been received from local residents raising issues which are addressed in detail below:

Parking and Highway Safety
23. Parking and Highway Safety is a matter for consideration under Class O.
24. The approved planning use of 1 Kensington is Class B1 Office and the building was formerly occupied by Durham County Council Social Welfare Department. As shown on the existing floor plans, the building consists of 341 sq m of office accommodation split between 15 individual office rooms plus ancillary staff accommodation. The building could, therefore, have accommodated a minimum of 15 members of staff (1 member of staff per office room) but, in reality, based on the size of the individual office rooms, the building could accommodate significantly more staff members than this. If each member of staff travelled to work by private car this would have resulted in a minimum of 15 cars seeking parking in the surrounding area. This does not include visitors to the office accommodation.
25. The change of use to 8 apartments will not result in an increase in vehicle movements or parking requirements. Indeed, it is likely to significantly reduce the requirement for parking based on the proposed use and the highly sustainable location of the property. This conclusion is supported by the Highways Development Management consultation response which makes reference to the existing office use and states that the site is 'in a relatively sustainable location'. The response concludes that 'It would be inappropriate to offer an objection to the principle of the proposal given that sustaining a highways objection would be unrealistic'.
26. Based on the potential level of parking associated with the permitted use and the consultation comments issued by the Highways Development Management there is no basis on highways and parking grounds to refuse the application for prior approval.

Refuse Storage

27. Large communal bins for residents use will be located on site within a secure bin store area. Individual wheelie bins are not proposed. Communal bins will be collected by a private contractor. This will avoid the impact on pedestrians using McIntyre Terrace referred to by some respondents.

#### Antisocial Behaviour

28. Antisocial behaviour and the character of future occupiers of a development are not planning matters nor issues for consideration under Class O of the GDPO. In any event, the proposal is for a high quality development with individual apartments which will be well maintained and privately managed.

#### Conclusion

29. No other issues for consideration under Class O of the GDPO have been raised during the application process.

30. The proposal will have no detrimental impact on transport or highway safety, there is no contamination or flood risk and the noise impact is entirely acceptable. There is, therefore, no justifiable reason for refusal of the prior approval application under GPDO legislation.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

31. This application is a type covered by permitted development provisions which means that a developer has to seek approval from the local planning authority that specific elements of that development are acceptable before work proceeds. This affects the manner and timescale in which an application should be processed and the issues that can be taken into account in any determination. These are detailed in paragraphs 32 - 35 below. A local planning authority cannot consider any other matters when determining a prior approval application.

32. Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 permits a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices), to a use falling within Class C3 (dwellinghouses) of Use Classes Order unless: –

(a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;

(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order -

(i) on 29th May 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

(d) the site is, or forms part of, a safety hazard area;

(e) the site is, or forms part of, a military explosives storage area;

(f) the building is a listed building or is within the curtilage of a listed building; or

(g) the site is, or contains, a scheduled monument.

33. In the case of the application site the property is not located on article 2(5) land and falls within a B1(a) Office Use Class, the site is not and does not form part of, a safety hazard area or military explosives storage area, the building is not listed or within the curtilage of a listed building; or the site is not a scheduled ancient monument.

34. As such the site is eligible for consideration under Class O subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to -

- (a) transport and highways impacts of the development,
- (b) contamination risks on the site,
- (c) flooding risks on the site, and
- (d) impacts of noise from commercial premises on the intended occupiers of the development,

35. These are the only issues against which the current proposal can therefore be considered.

#### Transport and Highway Impacts of the development

36. A number of objections have been received to the proposals on Highways grounds raising issues of insufficient and inadequate parking in the area at present, parking difficulties for existing residents, pressures from commercial users parking and leaving vehicles all day and congestion due to the proximity to nearby schools. It is also considered that existing parking problems have been increasing over recent years and the current proposals will further exacerbate these existing difficulties.

37. Concerns also relate to safety issues for children walking to school and objectors highlight road traffic incidents in the area and that the proposals will add to highways safety issues and risk to lives.

38. The application site fronts Cockton Hill Road which contains a number of commercial premises in the vicinity of the site. It is accepted that many of these are terraced properties with little or no off street parking and that many residential properties in neighbouring streets in the vicinity of the application site have similar arrangements. Cockton Hill Infant and Junior School are also located to the east of the site, with vehicle access, in the main from McIntyre Terrace.

39. Some on street parking is available on Cockton Hill Road although double yellow lines are in place around the junction and to the front of the site. There is also a zebra crossing on Cockton Hill Road, close to the junction with McIntyre Street and one side of McIntyre Terrace also includes double yellow lines close to the junction. There is a 20 mph sign in place.

40. The building has an established office use and although currently vacant could operate again as an office without any planning control. This in theory could generate a number of vehicles visiting and parking at the premises which have the potential to be greater than the number of vehicles which could be associated with the use of the premises as apartments.

41. It is appreciated that the premises does not have any off street parking and that no off street parking is proposed within the constrained site layout. However, there are a number of bus stops on Cockton Hill Road and the application site is relatively close to Bishop Auckland town centre. As such the site is considered to be within a sustainable location within Bishop Auckland and as such occupiers would not be overly reliant on private car journeys to access local services.

42. The Highways Officer has been consulted and he raises no objections to the application. He notes that the property has office use currently, is immediately adjacent

to frequent bus routes, and is a relatively sustainable location. In that context he considers that it would be inappropriate to offer an objection to the principle of the proposal given that sustaining a highways based refusal would be unrealistic.

43. He goes on to note that although no parking provision is present or proposed, an existing building is annotated for use as cycle parking.
44. He has also commented that a new door opening to the rear lane is shown as being proposed which he considers may be in conflict with an existing steel brace with this proposed opening. He also advises that it is an offence under the Highways Act to have a gate opening outward onto a public highway and it is requested that this be verified on the proposed plans. The agent has provided an amended plan which includes doors opening into the site. As outlined above a separate planning application for external alterations has been lodged and such details will be considered as part of that application.
45. Para 109 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
46. Whilst the concerns and objections relating to parking and highways safety are appreciated given the previous use of the premises, scale of the proposed development and comments from the Highways Authority the proposals are not therefore considered to result in such an unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network considered to be so severe in line with the NPPF. The transport and highways implications of the proposals are therefore considered acceptable.

#### Contamination Risks

47. The application relates to an existing and well established building previously used as office accommodation. The Council's Contaminated Land Section initially requested the completion of a Screening Assessment Form and following submission of such has not raised any objection to the application as a result advising that they have no adverse comments to make and there is no requirement for a contaminated land condition. The proposals are not considered to raise any unacceptable contaminated land risks in accordance with the requirements of parts 11 and 15 of the NPPF.

#### Flooding Risk

48. Part 14 of the NPPF requires account to be taken of the impact of flood risk to and from proposed developments and the prior notification procedure requires local authorities to make a determination as to whether or not the prior approval of the authority will be required as to flooding risks on the site.
49. In this regard it is noted that the site falls within Flood Zone 1 as defined by the Environment Agency Flood Maps. Whilst it is appreciated that the proposals result in a change of use to a more vulnerable use as the site is located in Flood Zone 1 and given the position of the building in this regard the development is considered to accord with the aims of the NPPF.

#### Noise impact from commercial premises

50. The property is situated within an area of Cockton Hill Road which is predominantly residential although it is appreciated that there are neighbouring commercial premises.

51. The Council's Environmental Health Section (Noise) has considered the application and comments that the front and side elevation is likely to be impacted on by traffic noise levels in excess of the thresholds stated in the TANS. As such he initially requested a noise assessment based on BS 8233:2014, should be carried out to demonstrate the level of mitigation works needed to protect future occupiers. Whilst these comments are noted the General Permitted Development Order requirement only allows consideration to be given of the impacts of noise from commercial premises on the intended occupiers of the development. He has confirmed that he does not consider noise from commercial premises to be a matter of concern. In this instance it is not therefore considered reasonable to include a condition requiring the submission of a noise assessment. It should be noted that the associated planning application for internal works would replace existing windows with new UPVC replacements. The standard of glazing intended for these windows can be reviewed as part of that submission.

52. It is not considered that the development would have an adverse impact upon adjacent land uses or the amenity of future occupiers with regards to noise from commercial premises .

#### Other Matters

53. Some objections and concerns have been raised relating to the nature of the occupation of the proposed units. Existing problems of anti-social behaviour, vandalism and police visits to the area are also referenced which could be exacerbated, along with possible overlooking and pedestrian hazards from wheelie bins.

54. Whilst these matters are noted as outlined above Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 requires LPA to consider only the impacts of the proposal in terms of transport and highway safety, land contamination and flooding and noise issues.

---

## **Conclusion**

---

55. Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 makes permitted development provision for the change of use of a building and land within its curtilage from office accommodation (Use Class B1) to residential (Use Class C3) subject to condition that prior to the commencement of development in this regard, application is made to the LPA for a determination as to whether or not the prior approval of the authority would be required as to a) transport and highway impacts; b) land contamination risks; c) flooding risks and d) impacts of noise from commercial premises on the intended occupiers of the development.

56. Taking into account all representations received and in light of comments from the Highway Authority and relevant consultees the proposals are considered acceptable in terms of the above areas listed. It is therefore considered that prior notification is not required and the development can proceed

---

## **RECOMMENDATION**

---

That prior notification is not required.

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

## BACKGROUND PAPERS

- Submitted Application Forms, Plans and supporting documents
- Town and Country Planning General Permitted Development Order (as amended)
- National Planning Policy Framework
- Statutory response from the Highway Authority
- Internal consultations responses
- External consultations responses

 <p><b>Planning Services</b></p>	<p>1 Kensington Bishop Auckland DL14 6HX</p>				
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.          Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.          Durham County Council Licence No. 100022202 2005</p>	<table border="1"> <tr> <td data-bbox="775 1606 1155 1715"> <p><b>Comments</b></p> </td> <td data-bbox="1160 1606 1422 1715"></td> </tr> <tr> <td data-bbox="775 1722 1155 1751"> <p><b>Date</b> 9 May 2019</p> </td> <td data-bbox="1160 1722 1422 1751"></td> </tr> </table>	<p><b>Comments</b></p>		<p><b>Date</b> 9 May 2019</p>	
<p><b>Comments</b></p>					
<p><b>Date</b> 9 May 2019</p>					