

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/03214/FPA
FULL APPLICATION DESCRIPTION:	Change of use of first floor from office (B1) to House in Multiple Occupation (C4) (Retrospective)
NAME OF APPLICANT:	Mr Ian Wardman
ADDRESS:	33 Cockton Hill Road, Bishop Auckland
ELECTORAL DIVISION:	Woodhouse Close
CASE OFFICER:	Amy Harkness, Planning Officer, 03000 261391, amy.harkness@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site forms part of a two storey building situated in an end terrace position on Cockton Hill Road, Bishop Auckland and relates to the first floor of the property.
2. The entire building was formerly used as an office but the first floor has been in residential use since April 2016. The ground floor is currently used as a letting agents.
3. The surrounding area comprises residential terraced dwellings behind Cockton Hill Road on the east and west sides, with a mixture of residential and commercial uses in adjacent properties on Cockton Hill Road itself. Bishop Auckland Baptist Church and a small park lie directly opposite the site on the west side of Cockton Hill Road. The site is situated within the Cockton Hill Conservation Area.
4. The upper floor contains three rooms currently used as bedrooms, together with a kitchen and bathroom. The internal layout remains the same as that of the previous use, with the only change being the manner in which the rooms are used. No external alterations have been made to facilitate the new residential use. The upper floor is accessed via the front door of the property on Cockton Hill Road. A small yard is situated at the rear of the property providing outdoor amenity space for the occupants.
5. At present the residential use is managed by a charity, Cornerstone Supported Housing and Counselling, who provide accommodation to those being rehabilitated into the community. Up to three unrelated individuals live together in the property, forming up to three separate households, sharing kitchen and bathroom facilities, which constitutes use as a house in multiple occupation (Use Class C4). No care facilities are provided to the occupants in the property.
6. The application is being reported to the Planning Committee at the request of Cllr John Lethbridge to consider whether the use is appropriate for this area.

PLANNING HISTORY

7. Planning permission was granted in December 2004 (3/2004/0735) to change the use of both floors of the property from residential use to offices.
8. A separate planning application (DM/16/03212/FPA) is currently under consideration to change the use of the ground floor of the building to a letting agents and to create a new entrance door.

PLANNING POLICY

NATIONAL POLICY

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
11. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
12. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
13. *Part 6 - Delivering a wide choice of high quality homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
14. *Part 7 – Requiring good design.* 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.
15. *Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which

promote safe and accessible environments. This includes the development and modernisation of facilities and services.

16. *Part 12 - Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

LOCAL PLAN POLICY:

The development plan is the Wear Valley District Local Plan saved policies:

17. Policy GD1 - General Development Criteria - All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
18. Policy H3 - Distribution of Development - New development will be directed to those towns and villages best able to support it. Within the limits to development of towns and villages, as shown on the Proposals Map, development will be allowed provided it meets the criteria in Policy GD1 and conforms to the other policies of the plan.
19. Policy H18 – Subdivision of Premises – Planning permission will be approved for conversion of premises to flats where they are located in the limits of towns and villages defined by Policy H3, will not be detrimental to the amenity of adjoining residents, suitable access, parking and amenity space is provided, alterations relate to the character of the surrounding area and the criteria of Policy GD1 is met.
20. Policy H24 - Residential Design Criteria - New residential developments and/or redevelopments will be approved provided they accord with the design criteria set out in the local plan.
21. Policy T1 – Highways - Sets out that all developments which generate additional traffic will be required to fulfil Policy GD1 and; provide adequate access to the developments; not exceed the capacity of the local road network; and, be capable of access by public transport networks.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3272/Wear-Valley-District-Local-Plan>

RELEVANT EMERGING POLICY:

The County Durham Plan

22. 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. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In

the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

23. Bishop Auckland Town Council – No comments received
24. Police Architectural Liaison Officer – The use has raised no policing issues and no objections are made, however clarification is sought over the use class and whether it is C3 (dwelling house) or C4 (House of Multiple Occupation). Some concern is also expressed regarding the lack of transparency and detail about the use in the description of the application. There has only been one recorded police incident at the property in the last 2 years which involved a suicide.
25. Highways Officer – No objections

INTERNAL CONSULTEE RESPONSES:

26. Design and Conservation Officer – No objections
27. Environmental Health (Noise Action Team) – No objections, unlikely to cause a statutory nuisance issue

PUBLIC RESPONSES:

28. A site notice was posted, the application advertised in the Northern Echo and neighbouring properties notified in writing, one letter of objection has been received from a neighbouring resident raising the following points:
- The building has been used for this purpose for over 10 months without planning permission and the Council has taken no action
 - It is being used by Cornerstone as a 'halfway house' and constitutes up to 3 recently released prisoners using the accommodation
 - Since the use began there has been a suicide, drug use, drug dealing, loud music till the early hours of the morning, noisy visitors, occupants attempting to access neighbouring properties in error, broken windows due to a fight between 2 occupants and a police raid, together with other incidents

APPLICANTS STATEMENT:

29. In 2004 I B N Holdings a local residential landlord purchased 33 Cockton hill Road to use as its own commercial offices alongside its accountants North East Tax Consultants. In December 2004 a change of use from residential of the whole building to planning use class B1 was granted. The property was then continually rented until May 2015 by North East Tax Consultants and IBN Holdings however in June 2015 North East Tax Consultants moved to a new office building in Newton Aycliffe. The property was far too big for IBN Holdings on their own so they offered the upstairs to Lease.

30. No Offers were received from anyone until they were approached in January 2016 by Cornerstone Supported Living a charity dealing with introducing people back to living in the community. IBN Holdings granted a commercial lease to the Cornerstone Supported Living in April 2015. As we had granted a commercial lease we were not aware that a change of use was required. The property has now been let to the charity for almost a year and things seem to be going well.
31. Once informed by the council that a change of use back to residential was required we applied as soon as possible.
32. As the building was originally residential and is still situated in a mixed business and residential area we feel this change of use application back to residential is in order and also provides a service to young people returning to community. We Fully Support the application for change of use back to residential and we also fully support the excellent charitable work done by Cornerstone Supported Living.
33. We understand this application is now to be renewed in the April planning meeting which IBN intends to attend and hopefully a member of the Charity.

PLANNING CONSIDERATIONS AND ASSESSMENT

34. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the principle of development, impacts on the character and appearance of the Cockton Hill conservation Area, highway safety and local amenity.

The principle of the development:

35. The Town and Country Planning (Use Classes) Order defines a House in Multiple Occupation (HMO) (use class C4) as “use of a dwelling house by not more than 6 residents as a ‘house in multiple occupation’.” The term ‘house in multiple occupation’ is further defined in S254 of the Housing Act 2004. In this case the current use of the first floor of the property is considered to meet the necessary tests to be a house in multiple occupation as the occupants share amenities such as bathrooms and cooking facilities. In addition as the occupants of this property are not related or known to each other, therefore they collectively do not constitute a single household, but individually are considered to constitute a household each.
36. The applicant originally sought planning permission for a dwelling house (C3), however as the dwelling is occupied by a number of separate households sharing amenities, use class C4 HMO, more accurately describes the way the dwelling house is used. Permitted development rights allow a change of use both ways between a dwelling house (C3) and houses in multiple occupation (C4) without the need to apply for planning permission.
37. As the use relates to a residential property occupied as a HMO, it is appropriate to consider the change of use against relevant housing policies. Saved policy H3 of the Wear Valley District Local Plan (WVDLP) seeks to direct new housing development to those towns and villages best able to support it, balancing the requirement for new housing with the need to maintain the character of the surrounding countryside. The site falls within the development limits of Bishop Auckland and therefore accords with the policy.

38. However, in accordance with paragraph 215 of the NPPF, the weight to be attached to relevant Local Plan policies depends upon the degree of consistency with the NPPF. Para. 49 of the NPPF also states that Local Plan housing policies should not be considered up to date where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. In this respect the settlement boundary policies are housing policies and are not considered to be up to date or compliant with the NPPF, which adopts a more flexible approach and does not seek to restrict the development limits of settlements. The aims of saved policy H3 relating to siting of housing in sustainable locations within settlements best able to support it and the protection of the open countryside are consistent with the NPPF and these aspects of the policy carry some weight.
39. Where local housing policies are not up to date, para. 49 of the NPPF goes on to say that housing applications should be considered in the context of the presumption in favour of sustainable development, which is set out in para. 14. This advises that developments should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole or specific policies within the NPPF indicate that development should be restricted. A planning balance test should be applied to assess the benefits and adverse impacts of the development and determine whether the proposal would accord with para. 14.
40. The site is situated close to the town centre and is well located in terms of access to local services and facilities. As such residents would not be wholly reliant on private car travel and the proposal is broadly in accordance with the aims of part 4 of the NPPF in respect to transport.
41. Part 6 of the NPPF seeks to achieve a wide choice of quality homes, Para. 17 supports the re-use and conversion of existing buildings and para. 51 applies this principle directly to residential uses. The proposed development involves reuse of a former office space for residential purposes in a sustainable location within Bishop Auckland close to local services and public transport. The property has been used for residential purposes in the past and the new residential use would be consistent with existing uses in the surrounding area.
42. Subject to the outcome of the planning balance test and an assessment of whether any adverse impacts of the development would significantly and demonstrably outweigh the benefits, it is considered that the proposal is in broad accordance with the aims of the NPPF and the principle of development is acceptable in this instance.

Impact on the character and appearance of the Cockton Hill Conservation Area

43. The site is situated within the Cockton Hill conservation area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on Planning Authorities considering proposals in Conservation Areas to pay special attention to the desirability for development to preserve or enhance the character or appearance of that area.
44. The site is situated within an area of Bishop Auckland characterised by a mix of commercial and residential uses. The property was originally a dwelling and the new use as a HMO would reinstate a residential use, it would relate acceptably to existing land uses in the surrounding area in this respect.
45. No external alterations have been carried out or are proposed in association with the HMO use and therefore its appearance would not change. There would be no

adverse impacts on the character and appearance of the conservation area and the Conservation Officer raises no objections to the application.

46. Taking all the above into account and having regards to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the character and appearance of the conservation area would be preserved. There is no conflict with the design and heritage aims of the NPPF or Wear Valley District Local Plan Policies GD1 and H24.

Local Amenity

47. Para. 17 of the NPPF states that new development should maintain a good standard of amenity for all existing and future occupants of land and buildings. Para. 123 specifies that planning decisions should avoid, mitigate and reduce noise and other adverse impacts on health and quality of life as a result of new development and that existing businesses should not have unreasonable restrictions put on them due to changes in nearby land uses. Saved policy GD1 from the WVDLP advises that new development should not disturb or conflict with adjoining uses.
48. Saved policy H24 of the WVDLP defines the expected standards of design for new residential developments and states there should be a minimum distance of 21m between walls of dwellings containing windows to habitable rooms. The policy also states that flats should have at least 25 square meters of amenity space per unit of accommodation. This policy has is only partially consistent with the objectives of the NPPF which is more permissive and therefore does not carry full weight in decision making.
49. The front of the building would face towards a park on the opposite side of Cockton Hill Road. The windows to the southern gable of the property face towards the gable of the registry office across Waddington Street. To the rear of the property there is only a single window on the stair case, which is not a habitable room. Therefore it is considered that the change of use would not lead to any issues of overlooking or loss of privacy to neighbouring properties.
50. A small yard area is provided for the occupants providing outdoor amenity space. This measures 16 square meters and is smaller than the specified area set out in saved policy H24. The NPPF does not set limitations on what constitutes good amenity and the saved policy lacks consistency in this regard. However the yard is considered to provide suitable outdoor private amenity space for occupiers of the HMO. A small public park is situated directly opposite across Cockton Hill Road which is easily accessible and contributes to the amenity space available within the immediate surroundings.
51. Fear of increased crime and crime and disorder are capable of being a material planning considerations in determining the planning merits of a scheme. Paragraph 58 of the NPPF states that “planning policies and decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion”.
52. Concern has been expressed by a neighbouring resident about a series of incidents, crime and anti-social behaviour that have occurred since the use began approximately one year ago.

53. The Police Architectural Liaison Officer has been consulted on the application and comments that the use has raised no policing issues and raises no objections. The potential for such incidences to occur in the future largely relates to the behaviour of individual occupants which is difficult to predict.
54. The charity, Cornerstone Supported Housing and Counselling, which runs the HMO have advised that occupants have to sign a licence agreement with them when moving into the property, which includes a series of terms and conditions that must be adhered to and have to pay rent to the charity from housing benefit or paid employment. Occupants can live there for up to 2 years. If any minor incidents occur in the property, a three tier warning system is in place, with occupants being given verbal and formal warnings before being evicted. If any more serious incidents occur, such as episodes of crime or anti social behaviour, occupants are evicted at 24 hours notice. Since the use began 2 occupants have been evicted with 24 hours notice. The terms and conditions also specify that the property is an abstinence house and no drugs or alcohol must be used in the property, in addition no visitors are allowed. Cornerstone staff carry out daily inspections of the property. Support is provided to occupants by the charity to rehabilitate themselves into society. This ranges from direct employment opportunities by Cornerstone who make furniture for sale to the public, employment training and life skills provision, ensuring attendance at job centre and associated appointments, together with access to appropriate forms of health care. Two of the current occupants are now in employment.
55. It is acknowledged that some incidents appear to have occurred since the use began and that crime, disorder and fear of this generated by the use are material planning considerations. Responsibility for the management of the premises lies with the owner and with Cornerstone, the charity to whom it is leased. It is considered by the owner of the building and Cornerstone that the use is going well and that minimal problems have been encountered. Other legislation is in place to control issues of anti-social behaviour and criminality, which would be enforced by the Police and other departments within the County Council. One letter of objection has been received in relation to the application expressing concern about activities at the property. The use is acceptable in principle and the level of crime, disorder and fear of this associated with the change of use is not considered to be to such an extent that would warrant refusal of the application.
56. Other residential properties are attached directly to the north and east of the building. The nature of surrounding housing in this area is predominantly terraced housing and it is therefore expected that occupiers would experience a limited amount of noise from properties directly attached to them. As the HMO is directly attached to other dwellings neighbouring occupiers may experience a limited amount of noise from the property, commensurate with terraced housing. However this is not expected to be more significant than that from any other attached terraced house and the amenity impacts in this regard are considered acceptable. The areas of the HMO which directly adjoin the neighbouring property on Cockton Hill Road are occupied by the stairs and landing, a storage cupboard and one of the three bedrooms, with other bedrooms and communal facilities being away from the adjoining wall.
57. The HMO is situated on Cockton Hill Road, a busy main road leading to Bishop Auckland town centre and bus route. The Environmental Health Officer notes that on this basis noise levels are likely to be above recognised thresholds. He comments that due to the scale of the development a noise assessment is not necessary but that the applicant should ensure appropriate mitigation is imposed to protect occupiers from excessive noise. The property has double glazed windows, it originally used to be a dwelling and is surrounded by a number of other residential

properties exposed to the same noise climate. The double glazed windows are considered to be an appropriate means of reducing noise to occupiers and noise levels would be similar to that the original dwelling would have experienced and to similar residential properties in the vicinity. It is considered that noise and disturbance experienced by occupiers is not at an excessive level and no further noise mitigation measures are necessary.

58. The use on the ground floor as a letting agents is a day time use and would not generate a significant amount of noise. This use would not cause any significant noise or disturbance to occupiers of the first floor HMO.
59. Having regard to the overall nature and scale of the development it is not considered that the proposal would be detrimental to the amenity of occupiers of the HMO and neighbouring residents and would accord with paras. 17 and 123 of the NPPF and saved policy GD1 from the WVDLP.

Highway safety

60. Para. 32 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe. Saved Policy T1 from the WVDLP states that all developments which generate additional traffic should accord with GD1 and provide adequate access, not exceed the capacity of the local road network and be capable of access by public transport networks.
61. The property has a bus stop directly outside, with services to Bishop Auckland town centre and beyond. Services and facilities in the southern part of the town centre are around 500m away from the site, with direct footpath links along Cockton Hill Road and can be easily accessed on foot. The site is in a sustainable location within Bishop Auckland and occupiers would not be reliant on private car journeys to access local services.
62. No off street parking is proposed, however unrestricted on street parking is available in the area around the site and given the ease of access to local services on foot and by public transport in this location, the lack of car parking is considered acceptable. The Highways Officer raises no objections to the application and the HMO use would not result in such a severe adverse impact on highway safety to warrant refusal of the application on highway grounds, in accordance with para. 32 of the NPPF and would accord with saved policies T1 and GD1 from the WVDLP.

Planning Balance:

63. The acceptability of the application falls to be considered under the planning balance test contained within Paragraph 14 of the NPPF and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development need to significantly and demonstrably outweigh any benefits.
64. The Council cannot currently demonstrate a five-year supply of deliverable housing sites. As a result it is considered that weight should be afforded to the economic and social benefits the HMO would make to local housing supply, the support new residents would give to local services and the current use helping to rehabilitate vulnerable individuals back into society.
65. The HMO is in a sustainable location where residents would not be wholly reliant on private car journeys to access local facilities and services. The development would not be detrimental in terms of its impact on the character and appearance of the

Cockton Hill conservation area, local amenity or highway safety and the relevant internal and external consultees raise no objections to the application.

66. The concern expressed by a neighbouring resident in relation to crime, disorder and fear of this if the use continues are acknowledged and are a material consideration. However there have been no significant concerns raised by the police and these issues are capable of being addressed by good management of the HMO by the owner of the building and the charity and other legislation is in place to control criminality and anti social behaviour. It is therefore considered that the extent to which these issues have occurred and the fear of crime from the use within the local community is not to such a level that would warrant refusal of the application on these grounds.

67. Overall therefore the adverse impacts associated with the development, relating to crime, disorder and fear of this are not considered to significantly and demonstrably outweigh the benefits of the proposal.

CONCLUSION

68. The acceptability of the application falls to be considered under the planning balance test contained within Paragraph 14 of the NPPF.

69. In this instance the development would provide public benefits, including a modest contribution to the local housing supply, support for local services and helping rehabilitate vulnerable individuals back into society.

70. On balance, it is considered that the benefits of the development significantly and demonstrably outweigh any adverse impacts. It is not considered that there are material planning considerations which indicate otherwise therefore the application is recommended for approval.

RECOMMENDATION

That the application be APPROVED subject to the following conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Site Location Plan – Received 6/10/16

Proposed Floor Plans (Dwg No. 33-DL14-6HS sht 2 Rev A) – Received 24/1/17

Reason: To define the permission and ensure that a satisfactory form of development is obtained.

3. No more than three persons shall reside in the HMO at any one time.

Reason: To ensure the property is not occupied excessively and in the interests of maintaining a good standard of amenity for residents and surrounding neighbours, in accordance with saved policy GD1 of the Wear Valley District Local Plan and the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision have, 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. The Local Planning Authority have sought to ensure that this application has been determined within the statutory determination period.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

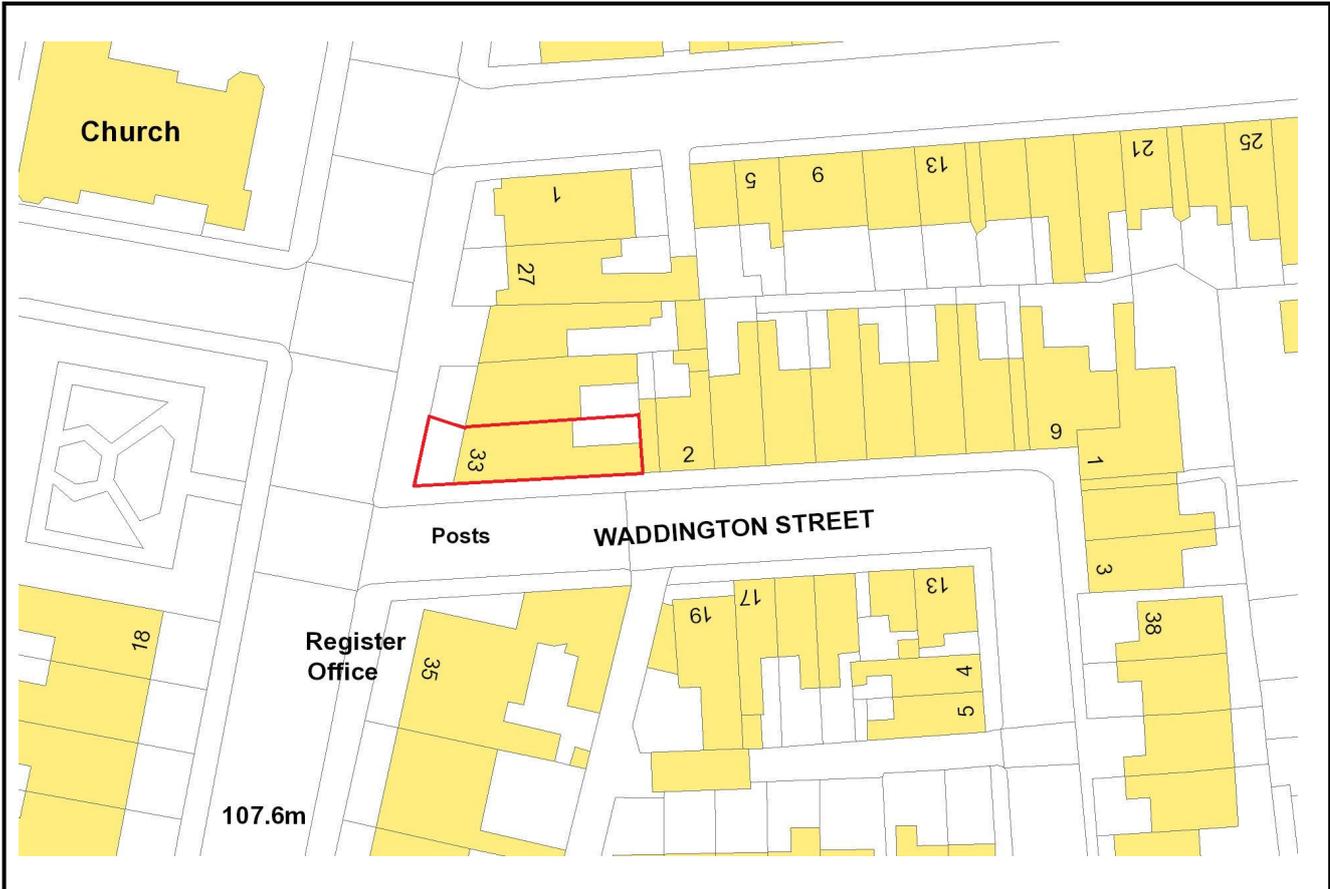
National Planning Policy Framework

Wear Valley District Local Plan

Statutory response from the Highway Authority

Internal responses from Environmental Health and Design and Conservation

External response from Police Architectural Liaison Officer



Planning Services

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Change of use of first floor from office (B1) to House in Multiple Occupation (C4)

Comments

Date 20 April 2017