

Committee Report

Application No:	DC/19/00179/COU
Case Officer	Richard Smith
Date Application Valid	28 February 2019
Applicant	Mr Mark Tunney
Site:	309-311 Old Durham Road Gateshead NE8 3TS
Ward:	Deckham
Proposal:	Change of use from Dwelling (C3) to Residential Institution (C2)
Recommendation:	GRANT
Application Type	Change of Use

The Application:

- 1.1 DESCRIPTION OF SITE.
The application site is a south-west facing mid terraced property on Old Durham Road, set within a block with includes both commercial and residential properties at first floor level.
- 1.2 The host property adjoins Gatsbys Interiors to the south-east and Smiths Furniture to the north-west. A rear lane separates the host property from no's.1-2 Roseberry Avenue and no's.3-5 Caris Street to the north-east.
- 1.3 Old Durham Road operates as a busy mixed-use area and the block of properties to which the host property sits, also consists of a Church to the south-east and a hot food takeaway to the north-east. The next block down includes another hot food takeaway, a tattoo parlour and a hairdresser's.
- 1.4 There is a bus stop located outside of the host property and 2no car parking spaces either side which are unrestricted.
- 1.5 The property appears to have been previously split into 2no flats, but it has been converted into one dwellinghouse at some time in the past, as there are two front doors which face onto Old Durham Road, no.309 and no.311.
- 1.6 DESCRIPTION OF APPLICATION
The application under consideration seeks retrospective permission for a change of use from a residential dwelling (use class C3) to a residential institution (use class C2).

- 1.7 A C2 use comprises for the provision of a residential accommodation and care to people in need of care; use as a hospital or nursing home or a residential school, college or training centre.
- 1.8 NPPG at Paragraph: 015 Reference ID: 21a-015-20140306 advises that it is rarely appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people. As in any application for dwellings, planning is not able to control the type of individual who would occupy the properties within that use class.
- 1.9 The submitted plans show 5no bedrooms, 3 on the first floor with the addition of a lounge and bathroom and 2 on the second floor with a bathroom and study. The ground floor shows an office which will be used by staff, a lounge area, kitchen and bathroom.
- 1.10 Further information provided by the applicant show that the proposed use will have 2no members of staff on site at all times, working nights on a 3-shift pattern, with staff parking to be used with the local area (on-street parking)
- 1.11 No external changes have been proposed, however the ground floor plan indicates the door which would have previously served no.311 has been removed.
- 1.12 **PLANNING HISTORY**
No previous planning history

Consultation Responses:

Brian Stobbs Northumbria - No objections
Police

Representations:

- 3.1 **REPRESENTATIONS**
Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.
- 3.2 A petition of 114 names representing local residents has been received, objecting to the application on the grounds that they are against drug and drink offenders in their community.
- 3.3 In addition, 8no letters of objection were received, raising concern with regards
 - o Already experiencing disruption from residents
 - o Anti-social behaviour
 - o Drug use
 - o Impact on local businesses
 - o Personal Safety - feeling intimidated

- o No structure in place to control residents' behaviour
- o Property value
- o Failure to follow the planning system
- o Noise
- o Inadequate Parking
- o Children use the bus stop located outside the property
- o Inappropriate in residential area
- o Also converting flats next door
- o Heavy police presence at the property

Policies:

CS14 Wellbeing and Health

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS9 Existing Communities

CS13 Transport

CS15 Place Making

DC2 Residential Amenity

Assessment of the Proposal:

5.1 The key considerations to be taken into account when assessing this planning application are the principle of the use in terms of housing policy, residential amenity, and highway safety and parking.

5.2 HOUSING POLICY

Paragraph 11 of the National Planning Policy Framework (NPPF) 2019 states that:

'At the heart of the NPPF is a presumption in favour of sustainable development. For decision making this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

- 5.3 Policy CS9 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle 2010 - 2030 (CSUCP) states that existing communities will be sustainable places of quality and choice. This will be achieved by preventing the loss of family homes, through the sub-division, change of use or redevelopment and by preventing an over concentration of shared accommodation. This development contributes to the range and choice of accommodation in the borough. The premises could become an HMO (use class C4) without needing planning permission, so it is not considered that this development would result in a loss of family housing. There is no evidence if an overconcentration of shared accommodation in the local area, nor any expectation that this development would result in an over concentration.
- 5.4 Furthermore, paragraph 91 of the NPPF, states that planning decisions should aim to achieve healthy, inclusive and safe places which promote social integration... through mixed-use developments. Paragraph 92, then goes on to state that planning decisions should ensure an integrated approach to considering the location of housing, economic uses and community facilities and services. Whilst, paragraph 59 states, that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed.
- 5.5 It is therefore considered that the change of use from a dwellinghouse to a residential institution would, in principle, accord with the above policies; albeit that detailed consideration needs to be given to potential impacts upon the local area. These are given consideration below.
- 5.6 VISUAL AMENITY
No significant external alterations have occurred nor are proposed and as such the impact on appearance of the property is nominal and thus the development does not conflict with the aims and objectives of the relevant paragraphs in the NPPF, policy CS15 of the CSUCP or saved policy ENV3 of the UDP.
- 5.7 RESIDENTIAL AMENITY
Officers are aware that there have been representations on the basis that there has been and could continue to be antisocial behaviour, due to the property housing 16-18-year-old males. Officers would, however, draw to attention that the planning system deals with the use and development of land; rather than the identity and background of any particular occupiers of existing and proposed buildings. As noted above, officers consider that the use of the building would accord with policy.
- 5.8 It is considered that anti-social behaviour (including noise) is a matter for the management of the building in connection with the Police and the Council's Environmental Health section and should not preclude granting planning permission in this case for the reasons cited above. The applicant has provided information to state that they intend to have 2no staff members on site at any

time on rotating shift basis. Officers are satisfied that the applicant has demonstrated an operational management of the property, subject to a management plan, which can be imposed as a condition (condition 3).

- 5.9 The building is located mid-terrace on a block of 5 properties, all of which at ground floor are commercial units however it is noted that there are flats located above some of the units most notably above Gatsbys which adjoins the site to the south-east, therefore it is considered that the site lies within an area which has a mix of different types of uses other than residential.
- 5.10 Saved policy DC2 of the UDP states that planning permission will be granted for new development, where it does not have an adverse impact on amenity or the character of an area and does not cause undue disturbance to nearby residents or conflict with other adjoining uses.
- 5.11 Whilst it is acknowledged that a level of 'domestic' noise may be generated as a result of the change of use, it is not considered that this level of noise would be unduly different to that associated with the use of the property as a dwellinghouse. Furthermore, given the location of the site, on Old Durham Road, which faces on to a busy road, and the noise generated by the nearby hot foot takeaway (whose website states is open until 21.45) and other evening activity in the area, it is not considered that a significant loss of amenity will be caused as a result of the use, which would warrant a refusal of planning permission.
- 5.12 HIGHWAY SAFETY AND PARKING
Small residential institutions of this nature are considered to generate very little traffic and parking demand particularly when compared to the existing residential use.
- 5.13 Policy CS13 of the CSUCP ensures any new development provides safe, secure and direct pedestrian links. Whilst no parking has been provided within the red line boundary, there is parking available within close proximity of the site, on-street with no restrictions and therefore it is not considered the proposed change of use would create undue disturbance to local residents in terms of parking.
- 5.14 Furthermore, the Council's Transport section confirmed they have no objections, however secure and weatherproof cycle storage should be provided, which can be imposed as a condition (condition 2).
- 5.15 Therefore, it is considered that the development is acceptable in terms of highway safety; in accordance with policy CS13 of the CSUCP and the NPPF.
- 5.16 OTHER MATTERS
Concerns raised regards to anti-social behaviour drug-use, safety and the impact on property value are not material considerations in determining this planning application.

- 5.17 The Council's Community Safety Team are aware of concerns raised by the objectors and the issues regarding anti-social behaviour will be managed within their remit.
- 5.18 In terms of failing to follow the planning system, whilst this application is retrospective the applicant has sought to regularise the use and S73A of the Town and Country Planning Act 1990 allows for the submission of retrospective planning applications.
- 5.19 There have also been representations submitted at the prospect of a further facility of this nature located next door or further along Old Durham Road. The applicant does not necessarily have to demonstrate a need for the proposed facility with the planning system dealing with any potential impacts upon the local area. The Council's Enforcement Team have been asked to investigate this claim and should an application be forthcoming for a further property it will be considered at that time.
- 5.20 In terms of waste management, the rear yard is also large enough to accommodate bins, with easy access to the rear lane.
- 5.21 **COMMUNITY INFRASTRUCTURE LEVY**
On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not qualifying housing related.

6.0 **CONCLUSION**

Taking all the relevant issues into account, it is therefore recommended that retrospective planning consent be granted, as the development has been able to demonstrate that it is acceptable in principle and subject to suitable conditions would not cause significant harm to amenity or highway safety. It is considered that the development does accord with national and local planning policies and the recommendation is made taking into account all material planning considerations including the information submitted by the applicant and third parties.

Therefore, it is recommended that planning permission be granted, subject to the below conditions

Recommendation:

That permission be GRANTED subject to the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -
Site Location Plan, received 28.02.2019, Existing and Proposed Floor Plans, received 28.02.2019.

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

Secure and weatherproof cycle parking, capable of storing at least one cycle shall be provided. The provisions of which shall be retained on site in perpetuity.

Reason

In order to ensure adequate provision for cyclists and in compliance with Policy CS13 of the CSUCP and the Gateshead Cycling Strategy.

3

Within 1 month of the date of decision details of a management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate how the property will be managed, to minimise impact on neighbouring occupiers. Thereafter, the use of the property shall be in accordance with the approved management plan unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of residential amenity and so as to accord with Policy DC2 of the Unitary Development Plan and CS14 of the CSUCP



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