## DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

**Ref No:** ST/1018/22/FUL
**Proposal:** Space above shop to be converted back to first floor flat
**Location:** 177-179 Prince Edward Road
South Shields
NE34 8PL

**Site Visit Made: 13/06/2023**

## Relevant policies/SPDs

1 DM1 - Management of Development

2 LDF CS SC1 - Creating Sustainable Urban Areas

3 LDF CS SC3 - Sustainable Housing Provision

4 LDF CS SC4 - Housing Needs, Mix and Affordability

5 SPD6 - Parking Standards

6 LDF CS A1 - Improving Accessibility

7 LDF CS EA5 - Environmental Protection

8 SPD23 Interim - Mitigation Strategy for European Sites (Recreational Pressure from Residential Development)

## Description of the site and of the proposals

The site is a mid-terraced property at Prince Edward Road, South Shields, a main district shopping centre in the Borough. The current layout comprises of a ground floor commercial unit, with first floor commercial storage associated with the ground floor premises. Planning permission is sought in this application for a change of use of the first floor commercial storage to a residential flat. No external alterations are proposed asides from the insertion of a pedestrian door within the rear boundary wall and subdivision of the rear yard to accommodate the access to the first floor, and a lockable letterbox to the front elevation.

## Publicity / Consultations (Expiry date 23/06/2023)

11 neighbours were sent direct letters of notification.

### 1) Neighbour responses

None

### 2) Other Consultee responses

Transport Development Officer: The details of the application have been examined and are considered acceptable, the Highway Authority therefore has no objections to the proposal.

Environmental Health: I have assessed the application to return the property in question back to a residential unit from a storage space.

I have no objections to the application. The commercial use to the ground floor of the property is currently a fruit and veg shop with standard opening times and should not cause any unreasonable noise to surrounding residents.

The shopping parade is well established and we have not received complaints from existing residents relating to any of the current uses. First floor use either side of the proposed application site appear to be storage or office based and should not be the cause of extraneous noise.

We did not receive any complaints when this unit was previously in residential use. Some noise from the surrounding uses is inevitable given the established commercial uses, and future residents will be aware of this, however I have no objections to this application in terms of noise impact.

Environmental Protection: No comments to make in relation to land contamination.

This application is not classed as a Major development. The development is within flood zone 1, and according to the Environmental Agency Flood Risk Assessment data there is no potential of flood during storm condition's, therefore the development doesn't come under the Statutory Requirement of the Lead Local Flood Authority to be consulted in respect of surface water flood management.

The surface water discharge should be dealt with in accordance with The Building Regulations 2010 Approved Document Part H (Drainage & Waste disposal). The applicant should adhere to a Hierarchy of Preference as contained within the Building Regulations which propose the surface water should be discharged:-

1. to a soakaway or infiltration system, or where it is not reasonably practicable,
2. to a watercourse (either open or closed) or where it is not reasonably practicable,
3. to a Sewer.

There should be no discharge of surface water onto the highway or any other neighbouring land from the development.

**Assessment**

In determining this application the main issues to be considered are:

- The principle of the development;
- Design of the proposal and its impact on visual amenity;
- Impact on residential amenity;
- Noise;
- Highway capacity and safety;
- Contaminated land;
- Flooding risks; and
- Habitats Regulations Screening Assessment and Appropriate Assessment

Principle of development

Planning legislation requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The government's National Planning Policy Framework (NPPF) is a material planning consideration in the determination of all planning applications. The South Tyneside Local Development Framework (LDF) remains the statutory development plan and the starting point for determining applications as set out in the planning legislation.

As a consequence of the Council not having a demonstrable 5 year housing land supply and the Council's Housing Delivery Test results showing that the delivery of housing was substantially below the housing requirement over the previous three years the tilted balance in NPPF paragraph 11(d) applies which states that relevant development plan policies in such circumstances are considered out-of-date and that planning permission should be granted unless:

i) The application of policies in the NPPF that protect areas or assets of particular 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 the NPPF taken as a whole.

This means that very significant weight must be given to the NPPF as a material consideration in deciding this application.

The NPPF clarifies (footnote 7) that the policies referred to are those in this Framework (rather than those in development plans) relating to: habitat sites (and sites listed in paragraph 176 of this Framework) and/or designated as SSSI, Green Belt, AONB, National Parks, Heritage Coast, irreplaceable habitats; designated heritage assets and areas at risk of flooding or coastal change.

No policies relating to footnote 7 matters are applicable in relation to this application. Therefore the LPA must move on to limb (ii) and apply the tilted balance. Benefits and harms identified as part of the assessment of footnote 7 policies can still be weighed in the balance, but this time as part of the tilted balance exercise.

Additionally, the planning assessment that is set out below, against relevant planning policy, in relation to the impact of the development upon visual amenity residential amenity, noise, flood risk, land contamination, and the habitats regulations makes clear that there is no reason for refusing this planning application. As such the principle of the development is therefore accepted.

There are no planning policies in the South Tyneside LDF which prevents or resists the change of use of commercial premises in locations such as Prince Edward Road being subject to a change of use to residential, and as the 'tilted balance' exercise is engaged it is not possible to refuse an application for this reason.

Design and impact on visual amenity

Given the nature of the external alterations to the frontage and rear boundary wall of the site, they are judged to convey sensitive consideration of the original building and its surroundings. No details have been provided relating to the proposed boundary treatment subdividing the rear yard, however it is considered this would be permitted development if it is two metres in height or less. A condition is suggested to ensure the external materials proposed are of a similar appearance to those within the original building, and in this regard it is considered the proposal would accord with LDF Policy DM1 (A).

Impact on residential amenity

Given the nature of the proposed works, it is not considered any adverse amenity or privacy issues would occur to any neighbouring property, and that the proposal would accord with LDF Policy DM1 (B) and the requirements of the NPPF, which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Noise

The application site is located adjacent to commercial uses at Prince Edward Road. The Environmental Health Officer has commented noting no objection to make on this application in terms of noise impact on the amenity of future residents as a result of this proposed change of use. The commercial use to the ground floor of the property is currently a fruit and veg shop with standard opening times and should not cause any unreasonable noise to surrounding residents.

The Office goes onto note the shopping parade is well established and Environmental Health have not received complaints from existing residents relating to any of the current uses. First floor use either side of the proposed application site appear to be storage or office based and should not be the cause of extraneous noise. Environmental Health also did not receive any complaints when this unit was previously in residential use. Some noise from the surrounding uses is inevitable given the established commercial uses, and future residents will be aware of this and no objections have been raised.

Given the Environmental Health Officer is satisfied that future residents will not be impacted by noise from the commercial uses, in this regard the impact on future occupants is considered acceptable in amenity terms.

Access and parking arrangements

No in-curtilage or off-street parking is proposed as part of the development, however the Council's Transport Development Officer has commented noting no objections to the proposal. The proposal would be in line with the maximum parking requirements of Supplementary Planning Document 6: Parking Standards. It is also noted provision would be available for in-curtilage cycle parking within the rear yard (as could refuse containers).

Given the above it is not judged that the proposed development would be detrimental to highway safety and would be acceptable with regard to vehicle movements and parking. It is considered that it would accord with Policy DM1 (G) of the South Tyneside Local Development Framework and the car parking guidance contained within Supplementary Planning Document 6.

Contaminated Land

The change of use relates to the change of use of the existing building only, with no extension or demolition works proposed. No contamination risks are therefore judged to arise from the conversion. The Environmental Protection Officer has raised no objection to the proposal. It is therefore judged that the proposal would be in accordance with Policies EA5 and DM1 (M) of the South Tyneside Local Development Framework.

Flooding Risks

No objections have been raised to the proposal from the Environmental Protection Officer, who notes the surface water discharge should be dealt with in accordance with The Building Regulations 2010, and that there should be no discharge of surface water onto the highway or any other neighbouring land from the development. Given the building is existing and no flooding concerns are raised it is judged the proposal would be in accordance with Policy DM1 (K) of the South Tyneside Local Development Framework.

Habitats Regulations Screening Assessment and Appropriate Assessment

Given the nature of the proposal and its location, a Habitats Regulations Screening Assessment and Appropriate Assessment have been carried out by the LPA as competent authority and the Appropriate Assessment does not require approval by Natural England as its conclusions are consistent with the parameters in their Standing Advice. In summary, this has concluded that the proposal is compliant with

the Habitats Regulations, would not cause unacceptable harm in respect of biodiversity and protected species and that it would not conflict with LDF Policies EA3 and DM7 or the Interim SPD23.

Conclusion

It is considered that the proposed development of this site for one dwelling would be acceptable, subject to the recommended conditions.

In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

**Recommendation**

Grant Permission with Conditions

**Conditions**

1 The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.

2 The development shall be carried out in accordance with the approved plan(s) as detailed below

Roof Plan Existing and Proposed Drg No. 04 Rev A received 24/04/2023
Proposed Ground Floor Plan Drg No. 12 Rev A received 24/04/2023
First Floor Plan Proposed Drg No. 13 Rev A received 24/04/2023
Proposed Elevations Drg No. 15 Rev A received 24/04/2023

Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

In order to provide a procedure to seek approval of proposed minor material change which is not substantially different from that which has been approved.

3 The external surfaces of the development hereby permitted shall be of similar appearance to those used in the construction of the exterior of the existing building on which the extension will form part.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with South Tyneside LDF Development Management Policy DM1.

**Informatives**

1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework to seek to approve applications for sustainable development where possible.

2 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the

Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

3 The Council requires the developer to provide to each unit before first occupation a 240l refuse bin and a 240l recycling bin to the Council's specification in order that the council can fulfil its obligation to collect and dispose of household waste. Details of the Council's specifications can be obtained from Waste Services at South Tyneside Council

4 UNIQUE NOTE TO APPLICANT

Your attention is drawn to the Party Wall Etc. Act 1996, which provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings.

A building owner proposing to start work covered by the Act must give adjoining owners notice of their intentions in the way set down in the Act. Adjoining owners can agree or disagree with what is proposed. Where they disagree, the Act provides a mechanism for resolving disputes.

The Act is separate from obtaining planning permission or building regulations approval and you can find out more about it at: https://www.gov.uk/party-wall-etc-act-1996-guidance

**Case officer: Nick Graham**
**Signed: N. Graham**
**Date: 03/08/2023**

**Authorised Signatory:**
**Date:**

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