

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 22 March 2022**

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<b>APPLICATION REF. NO:</b>	23/00056/FUL
<b>STATUTORY DECISION DATE:</b>	22 March 2023
<b>WARD/PARISH:</b>	Heighington and Coniscliffe / Low Coniscliffe and Merrybent
<b>LOCATION:</b>	44 Merrybent, Darlington
<b>DESCRIPTION:</b>	Change of use of the detached garage building from garages with home office above to garages with business office above (Retrospective Application)
<b>APPLICANT:</b>	Mr John Bates

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

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**Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:**  
<https://publicaccess.darlington.gov.uk/online-applications/>

**APPLICATION AND SITE DESCRIPTION**

1. This application site relates to a detached garage with an office above at 44 Merrybent within Darlington. Adjacent to the East is No.42 and adjacent to the West is No.46 Merrybent. To the front (North) of the application site is the main road followed by further residential dwellings.
2. The proposed business use is in operation at the first floor of this home office and so retrospective consent is sought. At the ground floor is the garage which is not intended to be used in association with this proposed business.
3. The first floor has been set up to accommodate three members of staff, including the applicant. The remaining two include the daughter of the applicant who also lives at 44 Merrybent and another member of staff who works part time at 25 hours a week, between 9am – 2pm Monday - Friday.

4. The proposed business, named JBL Services Ltd, involves servicing and repairs to catering and refrigeration equipment within mainly nursing homes and schools across the Northeast of England. The business has eight members of staff and only three work within the detached garage building, the remaining five work remotely from home, carrying out service repairs to different customers across the Northeast. The business operates between Monday-Friday at 9am-5pm and no service or repair works are carried out at this building.
5. It should be noted that the Planning Statement refers to an overall staff level of nine, with six staff working remotely. However, at the end of January (after the submitted Planning Statement) one staff member left. It has not been considered necessary to update the Planning Statement for this aspect which confirms remote staff working numbers, but it is highlighted here for clarity. This is because the applicant submitted a response to neighbouring objections and reference is made to one less staff member than was highlighted in the Planning Statement.

#### **MAIN PLANNING ISSUES**

6. The main planning issues are whether the proposed change of use would be acceptable in terms of its impact upon:
  - (a) Principle of Development
  - (b) Character
  - (c) Amenity
  - (d) Highway Safety
  - (e) Nutrient Neutrality

#### **PLANNING POLICIES**

7. The application has been considered in line with the National Planning Policy Framework (NPPF) and relevant policies of the Darlington Local Plan and Low Coniscliffe & Merrybent Parish Neighbourhood Plan, which seek to ensure that new development:
8. From the Darlington Local Plan;
  - Reflects the presumption in favour of sustainable development contained within the NPPF and to secure developments wherever possible that would bring economic, social and environmental benefits to the Borough (*Policy SD1*).
  - Will be approved without delay where planning applications accord with policies within the development plan, or where there are no relevant development plan policies, permission will be granted unless policies within the NPPF provide clear reasons for refusing the development or any adverse impacts of the development significantly outweigh its benefits (*Policy SD1*).
  - Takes into account the role and function of places based on the following hierarchy of settlements;
    - Rural Villages - The character and setting of these Rural Villages, including their relationship within the surrounding countryside, will be protected and where possible enhanced. Development shall make efficient and sustainable use of existing buildings and infill opportunities. (*Policy SH1*).

- Reflects the local environment and creates an individual sense of place with distinctive character (*Policy DC1*).
  - Provides suitable and safe vehicular access and suitable servicing and parking arrangements in accordance with Policy IN4 (*Policy DC1*).
  - Is sited, designed and laid out to protect the amenity of existing users of neighbouring land and buildings and the amenity of the intended users of the new development (*Policy DC4*).
  - Will be suitably located and acceptable in terms of noise and disturbance, artificial lighting, vibration, emissions from odour, fumes, smoke, dust etc and commercial waste (*Policy DC4*).
  - Will provide safe and secure vehicle parking and servicing. The number of spaces required will depend on the nature of the proposal as well as the local circumstances and standards set out within the Tees Valley Highway Design Guide (*Policy IN4*).
9. From the Low Coniscliffe & Merrybent Parish Neighbourhood Plan;
- Maintains the character of the locality, with consideration to appearance, size, scale and density of the proposal (*Policy LCM 8: Design*).
  - Provides adequate refuse and recycling storage that is incorporated into the scheme to minimise visual impact (*Policy LCM 8: Design*).
  - Does not prejudice the amenity of future occupiers or occupiers of adjacent properties in terms of overshadowing, loss of light, dominance, loss of privacy, noise or general disturbance (*Policy LCM 8: Design*).
  - Will not result in unacceptable levels of noise, air or water pollution (*Policy LCM 8: Design*).
  - Will be supported where it can be demonstrated that development;
    - Will provide safe vehicular, cyclist and pedestrian access
    - Will not significantly impact upon traffic flows on the highway network or that appropriate mitigation measures can be secured and undertaken
    - Makes satisfactory off-road parking provision (*Policy LCM 18: Transport and New Developments*).

## RESULTS OF TECHNICAL CONSULTATION

10. In summary;
- |                             |                |
|-----------------------------|----------------|
| Highway Development Control | No objection   |
| Environmental Health Unit   | No objection   |
| Parish Council              | Not Supported. |
11. No highway objections have been raised by the Council's Highways Development Control Officer. They have reviewed the information and supporting Planning Statement, commenting that with just three members of staff working at the premises, sufficient car parking is demonstrated. They also note that there would be sufficient space to internally accommodate deliveries from vans.

12. The Environmental Health Officer noted that no service or maintenance work is to be carried out at the premise and there is no defined workshop area. They noted the frequency of deliveries, with most orders being sent directly to the customers. In addition, the officer observed from the submitted information that the workforce on site is small and that staff would operate during daytime opening hours. Consequently, they do not envisage any issues associated with noise and have not objected to the application.
13. The Parish Council have not supported this application, commenting on the limited substantiated facts to hand at that time. They note the information indicating a mainly office related activity with minimal site traffic, but due regard has been given to the objections raised by local residents who have commented on the frequency of commercial vehicles visiting the site. They are also aware of a recent accident involving a vehicle associated with the site, which they state reinforce resident concerns. They feel that residents are being impacted by activities on site and cannot support an application which would impact/ detract from local amenity.

#### **RESULTS OF PUBLICITY AND NOTIFICATION**

14. A total of three objection comments have been received by the following properties with the main concerns bullet pointed below. It has been confirmed that the comments from Paul Crudass have been submitted as both a ward councillor and individual representation.
  - Mr Richard Bell, 46 Merrybent
  - Mr Paul Crudass, 81 Merrybent
  - Mr Clive Bennett, 67 Merrybent
  - Scale of commercial activity out of character to residential area.
  - Multiple commercial vehicles / deliveries seen regularly on site.
  - Delivery vehicles do not use the internal parking area due to locked electronic gates to entrance of application site and so they park on the main highway.
  - Staff entering the site do not have direct access to electronic gates and have to wait for them to be opened.
  - Impact to highway safety due to number of commercial vehicles and large delivery vehicles.
  - Access not suitable for amount of commercial and residential vehicles.
  - A road traffic accident occurred from one of the companies' vans manoeuvring into the site.
  - There is storage of commercial goods within the garage.
  - The business creates noise disturbance and hours of operation unsuitable.
  - Impacts from commercial waste.
15. The applicant has done a written response to address each of the above points. Where relevant, such response comments have been included within the officer report, but the full response comment can also be viewed in full online at: <https://publicaccess.darlington.gov.uk/online-applications/>

## PLANNING ISSUES/ANALYSIS

### (a) Principle of Development

16. The application site is located within the limits to development and it is considered to be within a sustainable location given the nearby transport links. Additionally, given the scale of the use, it is not considered to significantly undermine economic growth in other locations across this borough.
17. Local policy SH1 states that rural villages should ensure development makes efficient and sustainable use of existing buildings. This business has utilised an existing building within the development limits of this settlement which is considered acceptable in terms of being a sustainable location and still utilising an efficient use for this building. It is considered, that the proposed use at the first floor makes an efficient use of the space to allow the applicant and staff to work more flexibly around the Northeast.
18. Adaptation for businesses is referenced within the NPPF paragraph 81;

*Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.*

19. The proposal is considered broadly in line with the above national policy as the business has been adapted for viability reasons, owing to the nature of the business changing over the years. Originally staff would repair and store items within a workshop and storage unit as part of the previous premise. This workshop area is no longer required as staff now work remotely at the customers premises. Additionally, a member of office staff retired, leaving only three members of staff (including the applicant) to work in the office. Consequently, this resulted in a unit that was too large for the business needs in which only a small office space for three staff would be required. Furthermore, at the time the lease was due for renewal, there was an increase of 30% for the rent and service charges and required a six-year commitment.
20. As a result of Coronavirus pandemic, people were advised to work from home. After this period the applicant recognised that the home garage would be a viable option to manage the business from. This is because the first floor of what was the home office, would provide the required downgrade in floor size for the business requirements. The operation and nature of this business also lends itself well to remote working. As such, it can be seen that the applicant has adapted the business needs to address the viability constraints of a larger unit that was no longer required. On balance, for the reasons given above, it can be understood why this garage was chosen to manage this business and in principle, given paragraph 81, the adaptation of a business can be supported.
21. It is also not considered unreasonable for the applicant to work from home as part of his business. The detached garage incorporated a home office at the first floor prior to this business operation. The proposed use is to allow a change for three members of staff to work at the first floor. The business is managed from this office space with the main operations of the business carried out on site across the Northeast.

22. As such, this proposal is considered a special circumstance because the applicant already lives at the plot, the daughter who works at the business also currently lives at the plot and the other member of staff is part time. The staff who work here mainly carry out office related activities. As such an office use is still being carried out here, albeit the intensification has increased threefold and the business is managed here, resulting in a change of use, but creating a unique and personal situation to the applicant.
23. As such, the nature of this office use as well as the scale of this proposed business, it is not considered to be unacceptable in principle, subject to the other material planning considerations to be assessed below. However, given the special circumstances of this case, it is considered reasonable to place a condition to restrict the proposed use to just this business model for the applicant and no other occupier or business. This means that the permission belongs to the applicant and not the land or building and so when they move on, the permission will lapse. In effect, any new business use cannot be operated without obtaining planning permission.

**(b) Character**

24. No external changes are proposed to the existing garage and so the visual amenities are not considered to be impacted upon.
25. It is accepted that the running of an office can differ to that of a residential context. However, the activities of an office use are not considered to be inappropriate for a residential area. This is taking into account the scale of the office as well as the activity levels set out by the applicant. As such, this proposed business is considered to be appropriate to the home use and wider residential area and would not unduly harm the wider context of this settlement.
26. Objection comments reference the intensification of the site, but when taking into account the Planning Statement which can be included in the list of approved documents, the level of activity is considered suitable for a domestic dwelling. It has been confirmed that no servicing or repairs would be carried out on site and that deliveries are to the customers unless it cannot be accommodated. As such the operations of an office use are not considered to be such a high active use as to significantly impact upon the residential character of the area. With regards to deliveries, the applicant has indicated that this would be a couple of times a week and that he would then deliver these items to the customers and there would also be the occasional visit from staff to pick up / drop off items. Such delivery activity at this proposed level is not considered to be significantly different to what a domestic property can receive delivery wise which has become a common aspect in this present day.

27. With regards to the objection comments about the storage of business items within the garage, it has been confirmed that there is a mix of domestic and business items. The reason for the business items being stored within the garage is because the larger unit has been closed down and for now some of the items have been stored within the garage until they can be moved on. In isolation, the storage of business items on a domestic property does not necessarily require planning consent. The Planning Statement also states that it is not the intention that business items will be stored within the garage in the long term. Therefore, on balance and based on this information, it is considered that the current items are permissible to be stored on site and the Planning Statement makes clear that no business items are to be kept in the garage. This temporary commercial storage situation is not considered to impact upon the character of the area and is also not considered to be an indication of the level of commercial activity.
28. With regards to commercial waste, this has been discussed with the applicant and it is noted that there is a commercial bin stored within the garage for office refuse. It is understood there is currently a contract in place for this bin which was signed in the previous premise and this contract does not expire until January 2024. Cancelling this would result in an early termination payment which is why this bin is still being used. However, it is not considered unacceptable to have a bin in association with a business and refuse collection for a small office use is considered to be of a low frequency. Furthermore, this can be stored within the garage and should not therefore impact upon the character of this plot, though it is understood that the applicant would not be looking to renew this particular contract for this refuse bin.
29. On balance, the proposed change of use is not considered to adversely impact upon the character of this area and would generally comply with local policies DC1 and LCM8. This is also taking into account that the business can be conditioned to not be operated by other future occupants. A further condition can be applied regarding no servicing or repairs to take place which therefore results in a scale and level of activity that is not considered to significantly impact upon the wider residential character of the area.

**(c) Amenity**

30. Consideration is given to the siting of the garage unit in relation to the orientation of neighbouring dwellings. It is considered that are sufficient distances for these operations to not harmfully affect amenity levels. This is also taking into account the small scale of the proposed use as well as the activities associated with an office use which do not typically generate a lot of noise and disturbance. The staffing levels for the proposed office space are considered acceptable and therefore controlled by way of a condition.
31. A condition has been attached to control the hours of operation between 8:30am – 6pm, Monday – Friday and this has been considered suitable. While the Planning Statement says the hours of operation are between 9am – 4pm/5pm, it is considered reasonable to allow a degree of flexibility for the staff that may arrive earlier or need to work later than 5pm.

32. As already noted, two conditions have been attached regarding a personal permission and for there to be no service, repair or maintenance. The former condition type will ensure that no other business is operated from this building. This condition will ensure that the amenity of neighbouring properties in the future can be assessed and safeguarded. The latter condition would assist in safeguarding current amenity levels as it would restrict the use to office operations only.
33. Overall, the proposed use is not considered to adversely impact upon amenity levels and would comply with local policies DC4 and LCM8. This is also taking into account that the Environmental Health Unit have raised no objections and so the noise and general activities associated with this business are considered acceptable.

**(d) Highway Safety**

34. The proposed scheme is not considered to create a highway safety issue and this is taking into account the comments from the Highways, Development Control Officer.
35. As already noted only three members of staff work on site and there is ample parking within the application site to park these vehicles. As these vehicles (as well as the residential vehicles) can be accommodated within the site, it is not considered that there would be any need to park on the main road, thus the main highway flow would not be affected by staff parking.
36. The extent of hardstanding also gives the ability for delivery vehicles to be able to park and manoeuvre within the site. It is noted that there are objection comments which refer to such vehicles parking on the main highway. However, this not due to a lack of space within the application site. As such, because delivery vehicles can be accommodated, it is not considered that a highway safety objection can be raised. Nevertheless, it should be noted that there are no restrictions from parking on the main highway which can occur at any time, regardless of this business operation. But the Planning Statement says that when packages are delivered to the office, the delivery vehicles pull into the gates of this plot, with no commercial vehicles being parked on the main road.
37. This point is further emphasised within the applicant's response comment, who states that the access to the plot is set back from the main road by 4 metres, allowing enough space to drive a vehicle in while the driver waits for the gates to open.
38. With regards to the electronic gates, an objection comment has stated that vehicles cannot enter the site because the staff and delivery drivers do not know the code. The applicant has refuted this comment, confirming that staff members and anyone else visiting the site know the code or have a key fob for the gates to allow access into the premises. The comments also say that the courier for the delivery of items for the business is generally the same person who has the access codes to the gates. Nevertheless, should there be a person who does know the access code, there is space in front of the access to allow a parked vehicle to wait while the gates open. As most the staff and anyone else who frequents the property knows the access code, it is considered that this situation of a parked vehicle in front of the electronic gates should be infrequent. There are also doorbells on the entrance of the access gates to call for access into the premise.



39. Objection comments also reference a high level of commercial vehicles being present on site on a daily basis. However, the Planning Statement has set out that deliveries will be to customers and where this is not possible, the deliveries will be sent to the office and the applicant would then deliver these packages to the engineers on site. The statement says that these deliveries occur a couple of times a week. In addition to this, one member of staff who works remotely but is often within the surrounding area of Darlington, may visit the office up to twice a week to either collect or drop off items. This level of activity is considered suitable and the Planning Statement will be approved within the documents list to ensure the operations set out for the business can be adhered to. Nevertheless, the extent of hardstanding is considered suitable to allow deliveries and staff to visit the site.
40. An objection comment has stated that the access to the site is not suitable for the level and extent of commercial vehicles. There is also reference to a road traffic accident occurring as a result of the business.
41. With respect to the road traffic accident, the applicant has commented that the accident was as a result from a third party. The applicant explains that the accident occurred outside of his property when a third party vehicle hit the back of a JBL vehicle that was pulling into his driveway. After this impact the third party vehicle then carried on out of control and hit another van that was parked on the main road, outside of 46 Merrybent, that was carrying out works to this neighbouring property. The incident was caught on the applicant's house CCTV and sent to the insurance companies who confirmed that the fault was with the third party driver.
42. Notwithstanding the above comments, further discussions were had with the Highways Officer regarding this accident and upon reviewing a five-year period of recorded accident data, there was no indication to suggest there would be a significant adverse highway safety issue regarding the access onto the main highway of Merrybent. The access into the application site also exceeds visibility standards for a 40mph road as well as there being sufficient space to turn within the curtilage of this property to allow vehicles to enter and exit in a forward gear.
43. Local policies DC1, IN4 and LCM18 all seek to support proposals that provide safe and suitable vehicular access and parking as well as not creating a significant impact upon traffic flows to the detriment of highway safety. It is considered that the proposal provides sufficient off-road parking provision and therefore safe and suitable parking provision is provided. Consequently, there is no requirement to park on the main highway and so the traffic flow would not be impacted upon. The access has also been deemed acceptable. Therefore, the proposal is not considered to create an adverse highway safety issue.

**(e) Nutrient Neutrality**

44. As of March 2022, Natural England advised that Darlington Borough Council is within the catchment area of the Teesmouth and Cleveland Coast Special Protection Area. This means under the Habitats Regulations, that Darlington Borough Council must now carefully consider the nutrients impacts of development proposals on habitat sites. Particular regard is had to developments that create overnight accommodation or those that impact upon water quality.

45. Two toilets have been installed at the ground floor, under the stairs and access to the first floor office. However, these works are considered of a small scale and serve workers within the borough. Therefore, based on the guidance from Natural England, the proposed works are considered to fall outside the scope of Nutrient Neutrality.

#### **THE PUBLIC SECTOR EQUALITY DUTY**

46. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. There is no overt reason why the proposed development would prejudice anyone with the protected characteristics as described above.

#### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

47. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

#### **CONCLUSION AND RECOMMENDATION**

48. The proposal is considered to be acceptable in principle and would not unduly harm the character of the wider area or the amenity of the neighbouring occupiers. It is also considered that the proposal would not have an adverse impact upon highway safety or nutrient neutrality. The proposal is considered to meet both national and local planning policy and it is therefore recommended that the application be Approved with Conditions for the reasons specified above.

#### **THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. Approved Plans and Statement

The development hereby permitted shall be carried out in accordance with the approved plans and statement as detailed below:

Reference Number	Date
OFFICE LAYOUT	18 January 2023
PLANNING STATEMENT	18 January 2023
LOCATION PLAN	24 January 2023

Reason: To ensure the development is carried out in accordance with the planning permission.

2. Personal Permission

This permission shall be personal to JBL Services Ltd only and shall not enure for the benefit of the land. In the event of JBL Services Ltd no longer being the owner of the premises the use shall revert back to the use as a home office space as part of the residential dwelling (Use Class C3).

Reason: In granting this permission the Local Planning Authority has had regard to the special circumstances of the case and wishes to have the opportunity of exercising control over subsequent uses in the event of JBL Services Ltd no longer owning the premises.

3. Restriction on Business Works

No servicing, repairs or maintenance in association with the hereby approved business is to take place in either the hereby approved office space or ground floor domestic garage.

Reason: To control the level of development for the avoidance of any doubt and to safeguard the amenities of adjacent residential occupiers.

4. Staff Numbers

The levels of staff working at the hereby approved office, shall be no more than 3 members of staff at any one time, as indicated on drawing 'OFFICE LAYOUT' (dated 18.01.2023).

Reason: To control the level of activity and for the avoidance of any doubt.

5. Operation Hours

The hereby approved office use shall not be open for business outside the hours of 8:30am - 6:00pm Monday to Friday. Deliveries associated with the use shall not take place outside of the permitted hours of operation.

Reason: In order to control the level of activity and to safeguard the amenities of adjacent residential occupiers.