

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 10th July 2019

APPLICATION REF. NO:	19/00048/CU
STATUTORY DECISION DATE:	14 June 2019
WARD/PARISH:	PARK WEST
LOCATION:	Earlston, 181 Coniscliffe Road
DESCRIPTION:	Change of use from a specialist care facility (C2 Residential Institutions) into serviced office accommodation (B1 Business and D1 Non-Residential Institutions) (Amended plans received 13 March 2019)
APPLICANT:	Mr & Mrs Hall

APPLICATION AND SITE DESCRIPTION

The property, known as Earlston, is a large detached building within the West End Conservation Area. The building is accessed off Coniscliffe Road and there is a detached single storey garage/store and a bin store within an informal parking area at the front, which is enclosed by a brick wall and fence with timber gates at the access. The building is 2.5 storeys (with a room in the roof space) with two wings and a conservatory leading down onto quite extensive formal gardens at the rear. The building has disabled access ramps to the front and also to the rear.

There are trees within the frontage of the property which are covered by tree preservation orders, namely,

- Three Sycamore trees covered by Tree Preservation (No 3) Order 1961
- A Chestnut and a Lime covered by Tree Preservation (No 2) Order 2001

The building has previously been used as a home for the elderly and was last used as a specialist care facility providing 24 hour care for people with long term and enduring mental health problems. The building was operated by the County Durham & Darlington Priority Services NHS Trust and comprised twelve beds for people who needed long term mental care but could live safely in the community. The property also provided three respite care beds offering short term care for people who were experiencing temporary difficulties. The property was adapted over the years to cater for additional

residents and its capacity was increased to twenty with eighteen beds for people requiring long term care.

Following the closure of the facility in 2017, the building was declared surplus to requirements by the Trust as services were transferred to West Park and it was subsequently sold at auction.

This planning application is for the change of use of the premises from a specialist care facility (Use Class C2) to provide serviced office accommodation for a mix of B1 (Business) and D1 (Non Residential) uses. Class B1 uses include office uses and Class D1 includes uses such as clinics, health centre, physiotherapy.

The submitted floor plans show:

Ground floor

- Four rooms to be used for D1 purposes
- Four rooms to be used for B1 purposes
- Shared meeting room within the existing conservatory
- Break out area and kitchen/dining room

First Floor

- Six rooms to be used for B1 purposes

Second Floor (roof space)

- One room to be used for B1 purposes

The existing garage/store and bin store would be retained and 16 parking spaces would be provided within the forecourt. The existing entrance would be widened to 4.5m and a cycle shelter would be erected to the west of the main building alongside the shared boundary with No 185 Coniscliffe Road behind a fence and gate. There would be no external alterations to the premises.

The proposed operating hours would be 08:00 to 20:00 Monday to Friday; 08:00 to 18:00 on a Saturday with no working on Sundays and Bank Holidays.

The trees within the site would be unaffected by the proposed change of use and the associated works.

Application documents including Planning Statement, Design and Access statement, plans, consultation responses, representations received and other background papers are available on the DBC website

PLANNING HISTORY

The relevant planning entries are:

00/00511/PLU An application for a Certificate of Lawfulness (Proposed Use) to use the property for NHS patient use, 24 hour care for people with long term and enduring mental health problems was GRANTED in September 2000

01/00035/FUL Planning permission for alterations to double garage to form boiler house and single garage and insertion of additional window to east elevation (ground floor) was GRANTED in March 2001

RESULTS OF CONSULTATION AND PUBLICITY

Following the Council's publicity exercises relating to the original submission, five letters of objection; one letter of support and one comment were received:

The letters of objection can be summarised as follows:

- *Whilst the desire for some flexibility in the uses is understood, how the building is used in practice will result on potentially variable impacts on neighbouring properties particularly in relation to parking requirements for staff and visitors, the levels of visitor activity and the hours of use*
- *Parking bays 12 and 13 are based on a tandem arrangement which makes access problematic and bays 14, 15 and 16 have restricted access due to the retained ramped access to the front entrance of the building. Under the Guidance there needs to be more space between the bays to provide an acceptable and usable car park and to avoid intensification of use resulting in a detrimental effect on the residential area*
- *In terms of overall provision and appropriate level of parking provision should be 22 bays*
- *The cycle shed is directly outside our kitchen window (No 185 Coniscliffe Road). This is unacceptable due to the frequent disturbance due to its close proximity to our property*
- *The hours of operation are excessive, particularly late evening activity*
- *Security concerns of the gardens and that of neighbouring properties*
- *No reference to limitations on the use of the gardens (for example parties and entertaining)*
- *Underestimated parking requirements and risk of inconsiderate on street parking*
- *We are concerned about noise and other disturbance that this will/may create with regard to traffic movements, especially if gravel is laid*
- *Parking outside our properties (No 177 and 179 Coniscliffe Road) can be quite challenging due to the proximity of the bus stop and the quantity of traffic so we are concerned that there is no on street or overflow parking that would prevent us from parking close to our homes*
- *Smoking on or near the premises is a concern as smoke will travel onto neighbouring properties*
- *Light pollution and signage could affect the visual appeal of the area. Nos 177 and 179 Coniscliffe Road are very overlooked due to the height difference of this building, especially the eastern wing and if lights are left on in this part of the building overnight this does affect the quality of our lives*
- *Wildlife in the area will be affected by this proposal*
- *The cycle shelter will not be realistically used if parking bays 5 and 6 are in use*
- *The consequences of the parking layout will be an increased number of vehicles that would be parking on streets outside of the site and creating additional congestion*

- *The proposal does not comply with Core Strategy Policy CS2 as the proposals do not contain suitable parking*
- *The proposed change of use has to be considered against the character of the Conservation Area*
- *The site not being maintained should not be a material planning consideration*
- *Significant impact from traffic intensification to the character of the building and location and will harm the significance of the West End Conservation Area*
- *There is a surplus of office units in Darlington town centre and less weight should be given to the proposals benefit to the economy*

The letter of support states:

- *We have no objection to the proposals provided that the proposed operating hours specified on the application form are conditioned on any planning approval*

The comment states:

- *There is nothing in the documentation which refers to the upkeep and maintenance of the perimeter fences and trees within the property which adjoins several residential properties and which are the responsibility of the applicant/owner*

Following the submission of additional information submitted on behalf the applicant and revised ground floor layout plan to show the location of the D1 uses, the Council received two letters of objection which can be summarised as follows:

- *Our objections still stand as the changes proposed are minimal and in particular the issue of the parking has not been resolved. There is a high chance the end users of the scheme will opt to park outside rather than be boxed in, especially where visits to clients need to be made*
- *Whilst the previous use may have had an impact from shift changes, the peaks were likely limited. There was never an issue with parking as the car park was never full and there was never any disturbances from cars being parked on the road*
- *The proposed start and finish times will mean potentially cars arriving from 8am through to 9am when this road is extremely busy and then either the entire block is vacated at that time with cars leaving at once causing a significantly greater traffic impact than the current use or a steady stream of cars from 4:30pm*
- *There is no guarantee over how many cars will park on Coniscliffe Road and only in front of the application site. Due to the parking bays being marked and the likelihood of poor parking in the site, more people will have to park on the public highway*
- *The impact on access and egress to surrounding residents is an issue along with safety issues given Coniscliffe Road is a busy, main thoroughfare into the town centre*
- *There is no way of knowing what how the future users of the development will operate. The D1 uses increases the likelihood that appointments will be made*

outside of office hours. The hours of operation need to be limited in the interests of residential amenity

- *The suggestion that the existing boundary fence would protect the privacy of the neighbouring dwelling from the proposed cycle shed is simply not true. The shed will sit proud of the fence and overlook the properties kitchen window causing obvious disturbance to the occupants*

Consultee Responses

The **Council's Environmental Health Officer** has raised no objections

The **Council's Historic Asset Officer** has raised no objections

The **Council's Highways Engineer** has raised no objections and requested the imposition of a condition to ensure that the first one metre of the drive within the property is constructed in a sealed material to prevent loose materials from being pulled onto the highway

PLANNING POLICY BACKGROUND

The relevant local and national development plan policies are:

Borough of Darlington Local Plan 1997

E2 – Development Limits

E12 – Trees and Development

EP2 – Employment Areas

EP7 – Office/Business Park Development

EP11 – Central Area Development Sites

EP12 – Office Development Limits Elsewhere

Darlington Core Strategy Development Plan Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy

CS2 - Achieving High Quality Sustainable Design

CS5 – The Provision of Land for Employment Purposes

CS14 - Promoting Local Character and Distinctiveness

CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2019

PLANNING ISSUES

The main issues to be considered are:

- Planning Policy
- Residential Amenity
- Impact on the Significance of the West End Conservation Area
- Highway Safety and Parking
- Impact on Trees

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National

Planning Policy Framework (NPPF) 2019 comprises up to date national planning policy and is a material consideration in planning decisions.

The application site lies with a residential area, outside of the defined town centre and the central area office development limits, employment areas and office/business development areas which are identified in the Borough of Darlington Local Plan 1997 and the Darlington Core Strategy Development Plan Document 2011 as being acceptable locations for B1 uses, subject to meeting certain criteria.

The property has however been in non-residential use for a number of years and the continued non-residential use of the building would not be out of keeping with the existing character of this part of Coniscliffe Road, provided the proposed use does not unacceptably impact upon the amenities of neighbouring residential properties. This will be considered in more detail in the next section of the report. The site is on a main traffic route with good public transport links and it is unlikely that the building would be converted into residential use due to its size. Furthermore, the Council would prefer to have buildings in use, especially those located in conservation areas, to prevent their condition deteriorating and adversely affecting the street scene, the amenity of the area and the significance of the conservation area.

The planning application has been assessed in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and as such the principle of the change of use can be supported in planning policy terms, subject to consideration of the following matters of development management.

Residential Amenity

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy seeks to ensure that new developments do not harm the general amenity and health and safety of the local community which echoes one of the core principles of the National Planning Policy Framework 2019.

The application site is within a residential area with existing dwellings bounding the east, south and west boundaries and there are properties on the opposite side of Coniscliffe Road (north).

The building has been used for non-residential purposes for many years and the last use provided 24 hour operational care which would have resulted in activities and vehicle movements throughout the day and on weekends, although the level of activity mentioned by the objectors has been noted. As a fallback position, the building could be used for a number of other uses within Class C2 of the 2015 Use Classes Order, and the Council would have no control over such matters of hours of operation, parking etc.

It is considered that the proposed operating hours of 08:00 to 20:00 Monday to Friday; 08:00 to 18:00 on a Saturday with no working on Sundays and Bank Holidays are not considered to be at antisocial times, or when residents would reasonably expect a degree of peace and quiet. The hours of operation will be secured by a planning condition which will create some betterment on the previous use in terms of protecting the amenities of the neighbouring dwellings.

As the proposal involves no external alterations, there would be no new openings inserted into the building that would increase the existing levels of overlooking any neighbouring dwellings. The two wings of the building that extend to the rear contain window openings within corridors that face onto the shared boundaries to the east and west and these existing corridors would remain as part of the new internal layout and therefore the views from these openings remain unchanged.

Officers consider that it is unreasonable to impose planning conditions relating to external lighting and the use of the rear garden as such conditions would not meet the legal tests for imposing planning conditions. There are other legislative powers available to the Council should complaints be received regarding noise and light pollution. Furthermore, the planning condition for controlling the hours of operation would cover the whole site and is considered to be an appropriate method for protecting the amenities of the area.

The existing car parking area is to the front of the building with no vehicular access down either side of the building. Whilst there will be activity in this parking area due to employees and visitors arriving and leaving during the course of the working day, the existing boundary treatments will provide some screening from such activity and it is envisaged that any noise generated will not be so adverse to justify a reason to recommend refusal for the planning application. The hours of operation condition would also impose control over the use of this part of the site.

The cycle shelter would be located alongside the west boundary of the site adjacent to No 185 Coniscliffe Road. The shelter would accommodate up to 10 cycles and would be constructed from clear plastic sheeting. The structure would measure 2.2m wide; 4.1m long with an overall height of 2.1m under a curved roof. The boundary with this neighbouring dwelling comprises a solid timber fence augmented by some vegetation. The kitchen window made reference to in the objections from the occupant of this dwelling can be partially seen above the fenceline. The cycle shelter would be set in 1.9m from the boundary line and it is considered that the structure and the activities associated with it would not create adverse amenity conditions for the neighbouring dwelling in terms of outlook and general disturbance.

The proposed change of use is considered acceptable in residential amenity terms subject to the imposition planning conditions relating to the hours of operation and to control the extent of D1 uses within the site, which would typically attract a greater number of visitors to the premises when compared to B1 office uses.

Impact on the Significance of the West End Conservation Area

In exercising the planning function with respect to Conservation Areas, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. If harm is identified to the character or appearance of a conservation area, then the decision maker must give "*considerable importance and weight*" to that harm in line with 72 of the 1990 Act.

Core Strategy Policy CS14 (Promoting Local Character and Distinctiveness) seeks to protect the Borough's distinctive character by protecting buildings, their settings and features.

Paragraph 190 of the National Planning Policy Framework (NPPF) 2019 requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. This must then be taken into account when considering the impact of a proposal on a heritage asset.

The NPPF recognises that heritage assets are an "irreplaceable resource and should be conserved in a manner appropriate to their significance" (Paragraph 184). Paragraph 192 notes that, in considering applications, account should be taken of "the desirability of sustaining and enhancing the significance of heritage assets". Paragraph 193 requires "great weight" to be given to an asset's conservation, irrespective of the extent of harm caused, and confirms that "the more important the asset, the greater the weight should be".

The proposal does not involve any external alterations to the building, the proposed cycle shelter would be located behind a fence and gate to the side of the building and the existing gated entrance which would be widened would result in a minimal alteration to the street frontage. The trees within the site would be retained. The Council's Historic Asset Officer has raised no objections to the proposed development.

The continued vacancy of the building could lead to the deterioration of the building and the site which is a position that the local planning authority would wish to avoid and, generally speaking, getting vacant buildings, in the Conservation Area, occupied with an appropriate use, is welcomed and to be encouraged.

Having considered the above and the comments from the Historic Assets Officer, Officers consider that the proposed development will "sustain" and "preserve" the significance of the West End Conservation Area and would accord with Policy CS14 of the Core strategy and paragraph 192 of the National Planning Policy Framework 2019.

Highway Safety and Parking

Policy CS2 (Achieving High Quality Sustainable Design) of the Core Strategy seeks to ensure that new developments provide vehicular access and parking provision that is suitable for its use and location reflecting the standards set out in the Tees Valley Design Guide and Specification.

The existing access would be widened to create a two way passage for vehicles exiting and entering the site and 16 parking spaces, including one disabled space, would be provided within the forecourt area. The site is located on a main public transport route, with a bus stop within 100m, and a shelter for 10 cycles is being provided.

The existing bin store which is within an acceptable walking distance from the highway would be retained. The existing dropped crossing is wide enough to serve the proposed 4.5m access, and therefore no works are needed with the highway.

The proposed parking/forecourt area is currently a gravel surface finish which will be retained so the first 1m of the in curtilage driveway should be constructed in a sealed material to prevent loose material being deposited in the highway and this would be secured by a planning condition.

The layout of some of the parking spaces is not ideal and whilst overspill parking is to be avoided, the site benefits from a wide frontage with sufficient space for four vehicles to park and Coniscliffe Road is wide enough to ensure that any vehicles parked on the highway do not impede the free flow of traffic. Neighbouring residential properties benefit from driveways with in-curtilage parking, as such on street parking associated with residential properties is currently minimal and a scenario where residents and office staff “compete” for parking is unlikely.

The amended ground floor plans have allocated four units that would be offered for D1 use, giving a total floor area of 58 sqm. The offices offered are smaller units on the ground floor frontage that are of such a limited scale as to only be able to accommodate one to one based services. Based on this arrangement the Council's Highways Engineer is satisfied that sufficient parking is provided to ensure there will not be a detrimental impact to the highway or the parking needs of neighbouring residential properties.

Disabled Access

Policy CS2 of the Core Strategy 2011 seeks to ensure that new development provides safe, convenient and attractive access for disabled persons. The existing access ramps to the front entrance and to the entrances on the single storey wings would be retained and there is provision for a disabled parking space. The D1 uses are all on the ground floor of the building making them accessible for disabled persons. The proposal will accord with this objective of Policy CS2.

Impact on Trees

Policy E12 (Trees and Development) of the Local Plan seeks to ensure that new development takes full account of trees and hedgerows on and adjacent to the development site. The layout and design of the development should wherever possible avoid the need to remove trees and hedgerows and to provide their successful retention and protection during development.

There are no proposals within the planning application to carry out any works to the trees within the site. The forecourt area is not being re-laid and marked out to show the formal parking spaces which will ensure that the trees and their root protection areas are not adversely affected by such works.

The vegetation and bushes that are located on the front boundary may be tidied up and/or removed which would not require any form of consent of the Council.

The applicant is aware that any proposals to carry out work to any of the trees within the site, apart from the removal of deadwood, will require the submission of appropriate applications in the future.

Other Matters

The future monitoring and up keep of the trees within the site would be the responsibility of the landowner and similarly maintenance of the boundary fencing would also be a matter for the owners of the said fencing whether that is the applicant or the occupants of the neighbouring dwellings.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

The use of the existing building for a mix of Class B2/D1 uses would not be fully compliant with relevant development plan policies, however in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, there are material planning considerations that would permit these policies to be set aside to allow the proposed change of use to be supported. The previous non-residential use of the property (Use Class C2) would allow the property to be used for any use falling within Class C2 (Residential Institutions) with no controls over such matters of hours of operations, parking numbers and this is given great weight in the planning balance.

The proposal would sustain the significance of the West End Conservation Area and, subject to the imposition of appropriate planning conditions, the proposed change of use would be acceptable in terms of highway safety and residential amenity.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 - Implementation Limit (Three Years)
2. The use of the building and outdoor areas hereby permitted shall not be carried on outside the hours of 08:00 to 20:00 Monday to Friday; 08:00 to 18:00 on a Saturday with no working on Sundays and Bank Holidays.

REASON: In the interests of residential amenity

3. Notwithstanding the details shown on the approved plans, the first 1m of the drive within the property shall be constructed in a sealed material (i.e. not loose gravel) and the work shall be completed prior to the commencement of the use.

REASON: In order to prevent loose material being pulled into the public highway

4. The number and size of rooms within the building to be used for Class D1 (Non-residential purposes) purposes of the Town and Country Planning Use Classes Order 2015 or any Order revoking or re-anacting that Order, shall be as shown

on the approved plans and shall not increase or be revised without the prior consent of the local planning authority first being obtained

REASON: To enable the local planning authority to control the future usage of the building to safeguard parking requirements and in the interests of the amenity of the local area.

5. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 - a) Drawing Number L018070-003 Rev A Proposed Ground Floor Plan
 - b) Drawing Number L018070-004 Proposed First and Second Floor Plans
 - c) Drawing Number L018070-007 Rev C Proposed Fourcourt Layout and Boundary Elevation
 - d) Drawing Number L018070-008 Proposed Cycle Shelter

REASON – To ensure the development is carried out in accordance with the planning permission

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

Borough of Darlington Local Plan 1997

E2 – Development Limits
E12 – Trees and Development
EP2 – Employment Areas
EP7 – Office/Business Park Development
EP11 – Central Area Development Sites
EP12 – Office Development Limits Elsewhere

Darlington Core Strategy Development Plan Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy
CS2 - Achieving High Quality Sustainable Design
CS5 – The Provision of Land for Employment Purposes
CS14 - Promoting Local Character and Distinctiveness
CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2019