

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/22/2426/OF1
2.	Proposed Development:	CHANGE OF USE FROM REDUNDANT SECOND FLOOR RESIDENTIAL FLAT TO STORAGE
3.	Location:	21 DUKE STREET, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: SITE AND LOCATION <p>This application relates to the second floor of 21 Duke Street. The ground floor is currently a bar known as Shakers, the first floor utilized for storage and the second floor is approved as a residential flat. The property is sited on the corner of Duke Street and Church Street. Access to the flat is internal from the lower floors.</p> <p>The building is situated within both the Whitehaven's Conservation Area and the town centre.</p> PROPOSAL <p>A change of use of the second floor is proposed to remove the residential flat and provide further storage for the bar. The second floor comprises a total of 55m2. Access will remain the same and no external alterations are proposed.</p>	

RELEVANT PLANNING HISTORY

Change of use to high class coffee shop, approved in December 1988 (application reference 4/88/1132/0 relates);

Three storey rear extension (A4) and upper floor change of use from C3 to A4, approved in July 2015 (application reference 4/15/2123/0F1 relates).

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

Conservation Officer

I do not anticipate any change in the significance of the building from the removal of the top floor kitchen and bathroom, and from their use as storage rooms, nor any impact on the character and appearance of the conservation or setting of nearby listed buildings.

Environmental Health

I have no objections to the above proposal.

As advice, I would caution about any water traps on redundant wash hand basins, sinks, bath, wc becoming dried out – they may permit the transmission of foul smells / pests.

Also to be aware of any redundant shower that is in the flat, this could be a source of Legionella risk.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 2 no. properties.

No responses have been received as a result of this advertisement.

PLANNING POLICIES

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

Copeland Local Plan 2013-2028 (Adopted December 2013)

Core Strategy (CS)

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other service areas: Roles and Functions

Policy ER8 – Whitehaven Town Centre

Policy ENV4 – Heritage Assets

Development Management Policies (DMP)

Policy DM6A – Managing Non-Retail Development In Town Centres

Policy DM27 – Built Heritage and Archaeology

Other Material Planning Considerations

National Planning Policy Framework (NPPF) 2019

Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA)

Emerging Copeland Local Plan (ELP).

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

The policies relevant to this proposal are:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS3PU: Settlement Hierarchy

Strategic Policy E1PU: Economic Growth

Strategic Policy R1PU: Vitality and Viability of Town Centres and villages within the Hierarchy

Strategic Policy BE1PU: Heritage Assets

Policy BE2PU: Designated Heritage Assets

ASSESSMENT

Principle of the development

Policies ST1 and ER8 of the CS and DS1PU and R1PU of the ELP seek to ensure that Whitehaven, as

Copeland's Principal Town, is able to benefit from development and that the vitality of the town centre is supported and improved.

The apartment on the second floor has not been utilized as a residential space for many years, with the Agent citing that the internal access precludes its successful use as a flat. The Applicant wishes to utilize the space as additional storage for the bar, as is already the case with the use of the first floor of the building. As the space will be utilized in association with the existing business, it is unlikely to create any amenity issues and the additional space will promote the continuation and expansion of the business.

Environmental Health raised no objections to the change of use but suggested that the owner is cautious with regards to any plumbing on the second floor due to the risk of legionella in stagnant water.

Overall, the principle of the development is considered to comply with the policies within the adopted Local Plan and the ELP.

Loss of residential

Mixed uses are encouraged within the town centre as set out within Policy DM6A of the CS and R1PU of the ELP. Although there will be loss of a residential property, it has not been utilized as a dwelling for a number of years and the Agent states that it is unsuitable for living accommodation. Due to the restricted internal access to the flat, it is unlikely that the flat could be effectively used as a flat, therefore the loss is not significant.

On this basis the proposal is therefore compliant with Policies within the CS and ELP.

Effects on the Conservation Area

Policy ST1, ENV4, DM27 of the Copeland Local Plan and BE1PU and BE2PU of the CS seek to protect, conserve and where possible enhance the historic, cultural and architectural character of the Borough's historic sites.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: *'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*.

Section 72 requires that: *'special attention shall be paid to the desirability of preserving or enhancing the character or appearance'* of a conservation area.

There will be no external alterations to the property therefore there will be no effect on the Conservation Area. The Council's Conservation Officer has raised no objections to the proposal.

The proposal is therefore considered to comply with policies ST1, ENV4, and DM27 of the Copeland Local Plan, BE1PU and BE2PU of the emerging local plan and the provisions of the NPPF.

	<p><u>Planning Balance and Conclusion</u></p> <p>No objections to the proposal have been received. On balance, the loss of the residential dwelling is considered to be insignificant due to its unsuitability and the utilization as storage will ensure that the whole building is utilized by the existing business.</p> <p>Overall, the proposal is encouraged in order to make use of a vacant area and encourage the viability and longevity of the ground floor bar. No adverse impacts will result to the character or appearance of the Conservation Area.</p> <p>It is considered that the proposal complies with policies within the Copeland Local Plan, the emerging Local Plan and the NPPF.</p>
8.	<p>Recommendation:</p> <p>Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> <p>The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.</p> <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p> <p>Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -</p> <p>Location plan and existing floor plans, scales 1:1250 and 1:100, drawing number 22/0358/01, received 25th October 2022;</p> <p>Location plan and proposed floor plans, scales 1:1250 and 1:100, drawing number 22/0358/02, received 25th October 2022;</p> <p>Design and Access Statement, written by Geoffrey Wallace, received 25th October 2022.</p> <p>Reason</p> <p>To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.</p> <p>The storage space on the second floor must be utilised in association with the business known as “Shakers” which occupies the ground floor and for no other purposes whatsoever.</p>

	<p>Reason</p> <p>To ensure that uses that would create an amenity issue for surrounding properties are not introduced to the building and in accordance with Policy ST1 of the Copeland Local Plan.</p> <p>Statement</p> <p>The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>
Case Officer: Sarah Papaleo	Date : 15/12/2022
Authorising Officer: N.J. Hayhurst	Date : 19/12/2022
Dedicated responses to:- N/A	