

COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2449/OF1
2.	Proposed Development:	CHANGE OF USE OF GROUND FLOOR FROM SHOP INTO A COCKTAIL BAR
3.	Location:	38 STRAND STREET, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, 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 This application relates to 38 Strand Street, a small mid terraced property situated within the Whitehaven Town Centre and within the Whitehaven Conservation Area. The ground floor of the building was previously in use as a retail shop. The upper floors are existing flats. The building does not benefit from any private amenity space or dedicated off street parking. PROPOSAL Planning Permission is sought for the change of use of the ground floor to create a cocktail bar. The	

proposal includes minor external alterations for the installation of a new painted fascia sign, two replacement wooden access doors and concrete cill with rendered wall below.

The proposed hours of opening are Friday, Saturday and Sunday between the hours of 12:00 and 9:00 pm.

RELEVANT PLANNING APPLICATION HISTORY

There is no relevant planning history relating to the site.

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

Environmental Health

1st Response

Regarding the above proposal.

Do you have any objections (specifically from the owner or occupant of the single first and second floor flat, listed as 38a. above the ground floor?

I am presuming that the ownership of the shop and flat are separate and in different ownership?

If this is the case, the traditional construction of the premises footprint (pre-1919) will give for a timber floor, with a suspended plaster ceiling in the ground floor as the structural separation between proposed bar and flat.

This raises concerns over noise transmission, from the bar to the flat above – noise from patrons, possible amplified music and speech.

The proposed hours of opening are also not clear – the application form states 12.00pm. Is that the opening time (ie midday)?

What are the proposed closing times?

Are the patrons to be drinking on the premises, or is it proposed to sell the alcohol only and consume off-site?

Further background information would be helpful.

2nd response

Further to the above planning application. I would comment thus:

- I do have reservations about the practicality of this proposal for the site chosen. The proposed cocktail bar is extremely limited in size.

Presuming that alcohol is to be consumed on the premises, a service bar area would have to be fitted, with space also required around the front door for safe access / egress. The only WC on the premises is towards the rear of the ground floor and reasonable passage would also be required for its use.

The bar would need a Premises Licence, in accordance with requirements of the Licensing Act 2003, and numbers of patrons allowed inside would be limited due to the small floor area and fire safety controls.

- My other concern is around the possibility of noise disturbance to the occupant/s of the flat on the upper two floors above the proposed bar. At this point, it is unclear if ownership of the ground and two upper floors is with the same owner. It would be helpful if the applicant can clarify this, what the proposed hours of use for the cocktail bar will be (opening and closing times on each day) as well as any plans for amplified music being played inside the bar. The building is one of pre-1919 construction with timber floors separating each storey and I am unconvinced that unreasonable noise will not be transmitted from the bar to the flat above.

I look forward to receiving the additional information as requested.

3rd Response

Further to the above planning application.

I do have misgivings about this proposal.

The premises in question is small and room for a limited number of patrons will be tight when conversion is made into the bar.

The applicant will need to apply for a Premises Licence, under the Licensing Act 2003, from this Council and restrictions may be imposed on the number of patrons allowed inside from a safety perspective.

Even if the bar will be small, I am also concerned about potential noise nuisance to the occupant/s of the flat above the ground floor at 38a Strand Street.

The bar is likely to be finished in hard furnishings and I would assume have amplified music available.

The building is one of traditional pre-1919 construction, with timber floors, and the noise insulation qualities between the proposed bar and the flat above are likely to be minimal.

Low frequency bass music is a particular problem in cases like this, as it readily passes through the building structure.

I understand that the bar and flat are in the same ownership, and that may help alleviate potential

problems.

However, I do feel that the Council should look at:

- possibly restricting late night opening to avoid sleep disturbance to the occupant of the flat
- Requesting that the applicant provides a Noise Management Plan (for example, provision of noise insulation material in the suspended ceiling, avoiding ceiling or wall hung-sited speakers in the bar, use of a noise limiter, choice of music etc)

In this way, the amenity of the resident/s will be considered and protected from excessive noise disturbance.

4th response

That looks much better and is acceptable.

With the bar owner living above, there shouldn't be any issues hopefully.

It could be problematic if he sold the flat at some future point.

But we have to go with this at present.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued 7 no. properties.

No responses have been received as a result of this consultation process.

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 2013)

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy
Policy ER6 – Location of Employment
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 DM7 – Takeaways, Pubs and Clubs, Betting Shops, Pawnbrokers and Amusement Arcades in Towns and Local Centres
Policy DM10 – Achieving Quality of Place
Policy DM22 – Accessible Developments
Policy DM27 – Built Heritage and Archaeology

Other Material Planning Considerations

National Planning Policy Framework 2021 (NPPF)

Planning (Listed Building and Conservation Areas) Act 1990

Conservation Area Design Guide SPD (Adopted December 2017)

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
Policy DS6PU: Design and Development Standards
Strategic Policy E1PU: Economic Growth
Strategic Policy E2PU: Location of Employment
Strategic Policy R1PU: Vitality and Viability of Town Centres and villages within the Hierarchy
Strategic Policy R2PU: Hierarchy of Town Centres
Strategic Policy R3PU: Whitehaven Town Centre
Policy R9PU: Non-Retail Development in Town Centres
Strategic Policy BE1PU: Heritage Assets
Policy BE2PU: Designated Heritage Assets
Strategic Policy CO4PU: Sustainable Travel
Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

ASSESSMENT

Principle of the Change of Use

Policy ST1 of the CS and DS1PU of the ELP seek to encourage the creation of new businesses.

Policy ST2 of the CS and DS3PU of the ELP designate Whitehaven as Copeland's Principal Town where the majority of development should be located.

Policy ER8 of the CS and R1PU seek to ensure that the vitality and viability of the town centre is maintained and where possible, enhanced.

Whilst concerns were raised regarding the small size of the property and its suitability for use as a bar in terms of viability and safety concerns any issues relating to safety and regulations will be considered within the process for a liquor license and does not affect the change of use planning application.

The proposal is for the change of use of the property from a retail shop to a bar. Based on the supporting policies within the local plans, the change of use is acceptable in principle.

Impact on Residential Amenity

Another key issue raised by this application is the possible impact on the amenity of surrounding residential properties as a result of the potential noise and disturbance created by the use as a bar.

Paragraph 127 of the NPPF seeks positive improvements to the built environment in order to improve people's quality of life by improving the conditions in which people live. 38 Strand Street has a residential flat above the property and there is a pub located to the north east. The unit was previously in use as a hairdressing salon and therefore had more limited opening hours and with less potential for noise disturbance.

Paragraph 127 also specifically relates to residential amenity for both present occupiers and any future occupants. This is emphasised in Policy DM7 of the Copeland Local Plan and R9PU of the ELP

which states that proposals for pubs and clubs will be permitted within the defined town centres, provided that they are not detrimental to residential amenity. The opening hours of the bar as submitted specifies that the premises would only be open until 9pm on a Friday, Saturday and Sunday night only. Environmental Health submitted consultation responses supporting the early closing time and that a noise management plan should also be submitted to ensure that the surrounding properties would not be negatively affected by the proposal. This has subsequently been provided.

The existing flat above the premises is to remain for residential use by the Applicant. As a result, the Environmental Health Officer has recommended a condition to ensure that the flat is tied to the business as any external selling or letting out of the flat is likely to create noise problems for the occupants.

Other issues, such as the provision of entertainment and anti-social behaviour issues can be controlled by the premises license rather than through the planning process.

On this basis, it is considered that this proposal will comply with paragraphs 91 and 127 of the NPPF, Policy ER8 of the Copeland Local Plan and Policy R9PU of the emerging local plan and it is considered that there are no planning grounds to refuse the application. The modest scale of the premises will limit numbers using the bar and the hours of operation can be controlled through an appropriately worded planning condition.

Effect on the Conservation Area

Policies ENV4 and DM27 of the Copeland Local Plan and BE1PU and BE2PU of the emerging local plan relate to the protection and enhancement of the Conservation Area and seek to ensure that any alterations are in keeping and respect the existing character of the area. Policy DM10 of the CS and DS6PU require good design.

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.

38 Strand Street is situated in a prominent location on the exit road from Whitehaven town centre and lies within the Conservation Area. Part 16 of the NPPF states that the significance of the heritage asset should be considered against putting a building to a viable use in order to achieve and contribute towards making sustainable communities and encouraging economic vitality. The proposed

	<p>external alterations are modest in nature and scale and will be in keeping with the character and appearance of the surrounding Conservation Area, maintaining the traditional materials of timber for the doors and rendered walls. The use of appropriate materials can be secured by a planning condition.</p> <p>The building has been empty for some time and it is considered that the use will significantly improve the appearance of the building and allow it to have a positive effect on the Conservation Area.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This proposal will provide a use for a vacant building that is located within the town centre. It will enable the creation of a new business and add vitality to the town centre.</p> <p>The night time economy can add a vitality and viability to the town centre and this has to be balanced against any potential impacts on residential amenity. It is considered that the benefits of the building being brought back into use are significant and any possible harm relating to neighbouring amenity can be adequately mitigated by restricting the opening hours. Any subsequent noise issues raised following the operation of the bar can be dealt with under the Environmental Protection legislation.</p> <p>The required premises licence will impose additional controls in order to support the planning conditions.</p> <p>Overall this is considered to be an acceptable form of development which accords with the guidance set out in the NPPF and the adopted Local Plan.</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>Site Location Plan, scale 1:1250, received 14th November 2022; Proposed Plans, scale 1:50, received 14th November 2022;</p>

Elevations, received 14th November 2022;
Noise Management Plan, received 13th January 2023.

Reason

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.

3. The development and operation must be carried out at all times in accordance with the Noise Management Plan submitted on 13th January 2023 and written by Mr Jonathan Crossley.

Reason

To ensure that the amenity of the neighbouring properties is protected and in accordance with Policy ST1 of the Copeland Local Plan.

4. The upper floors at 38 Strand Street must not be sold, let or otherwise used except in conjunction with the cocktail bar on the ground floor at any times during the lifetime of the development.

Reason

To ensure that unacceptable noise and amenity issues are not created for local residents and in accordance with Policy ST1 of the Copeland Local Plan.

5. The use hereby permitted must not be open to the public / customers outside the following times:

Friday, Saturday and Sunday – 12:00 – 21:00

Reason

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality and in accordance with Policy ST1 of the Copeland Local Plan.

6. The replacement doors must be of timber construction and retained as such at all times.

Reason

To protect the appearance of the Conservation Area in accordance with Policies ENV4 and DM27 of the Copeland Local Plan.

Informative

The use of the ground floor of the premises as a bar should not commence until the applicant has secured a Premises Licence, in accordance with requirements of the Licensing Act 2003, from the Council.

Statement

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.

Case Officer: Sarah Papaleo

Date : 20th January 2023

Authorising Officer: N.J. Hayhurst

Date : 20th January 2023

Dedicated responses to:- N/A