

<b>Agenda Item</b>	A6
<b>Application Number</b>	23/00544/FUL
<b>Proposal</b>	Subdivision of existing maisonette into 2 flats (C3) and installation of grilles to the rear elevation
<b>Application site</b>	Flat Above 4 China Street Lancaster Lancashire
<b>Applicant</b>	TFHT Properties Ltd
<b>Agent</b>	Mr Steve Donnelly
<b>Case Officer</b>	Mr Patrick Hopwood
<b>Departure</b>	No
<b>Summary of Recommendation</b>	Approval, subject to conditions

(i) **Procedural Matters**

The application has been called in by Cllr Brookes and, together with the significant public interest, it is considered necessary to bring the application before the Planning Regulatory Committee.

**1.0 Application Site and Setting**

1.1 The site to which the application relates to is a residential maisonette over the upper floors (first and second floors) of a vacant shop unit on China Street, in the city centre. The site lies within the Conservation Area, a Regeneration Priority Area, a Primary Shopping Area, and an Air Quality Management Area. The site falls within a primary shopping area and has a retail frontage designation. Listed buildings in the vicinity include 37-43 China Street, 54A-58 Market Street, 66 Market Street and 29 Castle Hill. The building is considered to be a Non-Designated Heritage Asset (NDHA).

**2.0 Proposal**

2.1 This application seeks planning permission of the subdivision of an existing residential maisonette into two 1-bed flats, and installation of ventilation grilles to the rear elevation.

**3.0 Site History**

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
05/01435/CU	Change of use of vacant retail shop to an office (A2 Use)	Approved

08/01099/ADV	Installation of an externally illuminated fascia and projecting sign	Approved
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#### 4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultee	Response
County Highways	<b>No objection</b> , subject to provision of cycle parking.
Environmental Health	<b>In agreement with Further Noise Assessment report.</b> Please condition the proposed mitigation measures as described to be installed prior to occupation of the proposed development.
Natural England	<b>No objection</b> , subject to appropriate mitigation being secured.
Conservation Team	<b>No objection</b>

4.2 At the time of writing this report, 1,825 responses have been received from members of the public, including **1,795 letters of objection** and **19 letters of support**.

The main planning considerations raised in the **objections** are as follows:

- Noise impacts on occupiers from live music venue
- Generation of noise/nuisance complaints from occupiers
- Impact of noise complaints on live music venue, potential for closure/restrictions
- Threatens city centre nightlife and local economy
- Proposed mitigation insufficient and noise report flawed
- Inappropriate location, too close to live music venue
- No need for more flats
- Use of shared alley/yard and associated delivery access, bin storage, and security
- Pollution from traffic
- Lack of parking and road disruption
- Lack of outside space

The letters of **support** raise the following main considerations:

- Good location for accommodation
- Close to travel networks
- Already a maisonette so no different
- Need for more city centre housing which is not for students

#### 5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle of Residential Use
- Noise
- Residential Amenity
- Highways
- Heritage
- Biodiversity

5.2 Principle of Residential Use (NPPF Sections 5 and 7; Policies SP2, DM1, DM13, DM16 and DM17)

5.2.1 Lancaster is identified as a sustainable key service centre within Policy SP2 of the Strategic Policies and Land Allocations DPD (SPLA DPD). The main urban areas including Lancaster provide the focus of growth for Lancaster district and in principle is where sustainable housing will be supported. Policy DM1 of the Development Management DPD (DM DPD) details the Council's approach in supporting new residential development stating that proposals must ensure that available land is used effectively, reflect the characteristics of different locations and the specific circumstances of individual sites. As of writing, the LPA's housing land supply equates to 2.4 years.

- 5.2.2 Paragraph 86 of the NPPF recognises the need to take a positive approach to town centre growth with a suitable mix of uses including housing, and Policies DM16 and DM17 acknowledge that it may be appropriate for upper floors of town centre shops to be used as residential. The upper floors of the subject building are already in residential use. Therefore, the principle of residential use at this site is already established. It is acknowledged that a 3 bedroom maisonette for family occupation may be inappropriate in this location due to lack of garden and parking, whereas 1 bed flat occupation may be more appropriate. Therefore the proposed subdivision can be supported, subject to other matters being satisfactorily addressed.
- 5.3 Noise (NPPF Sections 8, 12 and 15; Policies DM24, DM25 and DM29)
- 5.3.1 The site is located opposite 'The Pub' public house, which hosts regular live music events and is a licenced live music venue (LMV). As such there is potential for disturbance from the LMV on occupiers of the proposed accommodation, particularly in terms of noise in the evening and at nighttime.
- 5.3.2 Policy DM29 seeks to minimise impacts on noise, and satisfactorily mitigate existing sources of noise pollution. NPPF Paragraph 130 requires developments to create places with a high standard of amenity for existing and future users, with Paragraphs 174 and 185 requiring proposals to avoid unacceptable noise impacts. Paragraph 187 of the NPPF notes that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Paragraph 187 goes on to state that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed. Policies DM24 and DM25 seeks to protect cultural assets (including LMVs) and support the district's evening and nighttime economy.
- 5.3.3 A Noise Assessment was submitted with the original application, including assessment and background measurements. Environmental Health raised concerns in terms of the content of the initial report and the testing undertaken. Subsequently, the Applicant commissioned and presented a further Noise Assessment, which includes additional measurements and clarification. The monitoring has taken place during periods of live music at the LMV, and includes assessment of low frequency noise (63 Hz and 125Hz octave band). The further report concludes that appropriate internal levels can be achieved with the installation of acoustic glazing. In order for the windows to remain closed, a ventilation system should also be provided, and this has been proposed by the Applicant as indicated on the submitted plans. Opening of windows for rapid or purge ventilation would be at the discretion of the occupiers.
- 5.3.4 The Environmental Health Officer is in agreement with the findings of the further report, subject to the mitigation measures being secured prior to occupation. There is now confidence that satisfactory internal noise levels which meet the recent guidance can be achieved, subject to the mitigation being implemented prior to first use. Details of the mitigation measures can be first secured through an appropriately worded planning condition, and the mitigation strategy should include details of acoustic glazing, ventilation systems and ceiling construction, which is also referred to in the report.
- 5.3.5 Additionally, it is noted that noise impacts (and noise complaints) are much more likely to arise from the current situation, where there is no secondary glazing and no ventilation system. Therefore the proposal will better protect future occupiers against adverse noise impacts, significantly reducing the chance of any noise complaints being generated. This in turn reduces the likelihood of any restrictions being placed on the LMV and associated knock-on effects on the local music scene and economy.
- 5.4 Residential Amenity and Housing Standards (NPPF Sections 12 and 15; Policies DM2, DM29, DM31 and EN9)
- 5.4.1 The flats meet the minimum floor space required by the Nationally Described Space Standard for a 1 person 1 bedroom flat, and therefore also comply with Policy DM2. Noise impacts are assessed above in Section 5.3. In terms of light pollution, it is acknowledged that the lighting set-up at the LMV could cause issues. However, with the use of blackout blinds or shutters within the accommodation, these potential effects can be reduced, and a condition can be imposed to ensure that these are

provided prior to occupation. The ventilation system proposed, which intakes filtered air from the rear elevation, will prevent the need for windows to be opened on the front elevation, improving the current situation in terms of air quality.

5.4.2 The property benefits from a yard space which is shared with the ground floor unit. Sufficient space is provided for both commercial and residential bin storage, as well as bicycle storage. Neighbouring businesses have delivery routes and fire escapes through the yard, and it is not these would not be impeded by the proposed development. In terms of security and lockable gates, this would be a private matter for the Applicant to consider along with any other users of the yard.

5.4.3 Overall, subject to mitigation for noise, light and air pollution impacts being secured, the proposal is acceptable in terms of residential amenity and housing standards.

#### 5.5 Highways (NPPF Section 9; Policies DM29, DM61 and DM62)

5.5.1 The site does not benefit from any car parking spaces. However, the site is located within a highly sustainable location, close to local shops and services, and close to bus routes and the railway station. Cycle parking is proposed in the rear yard, however this is in the form of uncovered racks. Covered and more secure storage, such as a cycle store or lockers is more preferable, therefore final details of cycle storage will be secured through a planning condition, and required prior to first occupation in order to promote sustainable transport methods.

5.5.2 County Highways have requested a condition for a construction management plan, however given the scale and nature of the proposal which is largely for internal alterations, is unnecessary in this instance and would not meet the required tests. Management of any highways disruption during the construction phase is also better covered through existing highways legislation, rather than through the planning system. On balance, the proposal is acceptable in terms of highways impacts.

#### 5.6 Heritage (NPPF Sections 12 and 16; Policies DM29, DM37, DM38, D39, DM41 and SP7)

5.6.1 In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Listed building, a Conservation Area or their setting, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the heritage asset or its setting. This is reiterated by the heritage policies of the Local Plan.

5.6.2 The only external alterations proposed will be the insertion of two ventilation grilles to the rear elevation. Given that these are minimal in scale and are required to mitigate noise and air quality impacts improving residential amenity, there will be no substantial harm to the identified heritage assets. The delivery of an additional residential unit is considered a public benefit which outweighs the less than substantial harm identified.

#### 5.7 Biodiversity (NPPF Section 15; Policies DM44, SP8 and EN7)

5.7.1 The site falls within the 3.5km buffer for Morecambe Bay designated sites. Any new residential units within this buffer have the potential to increase recreational pressure on the coastal designated sites, as set out in the LPA's Habitats Regulations Assessment. However, with the implementation of homeowner/tenant pack mitigation, it is considered that the proposed development will have no adverse effects on the integrity of the designated sites, their designation features or their conservation objectives, through either direct or indirect impacts either alone or in-combination with other plans and projects. The mitigation measures can be adequately covered by a condition attached to any planning consent, and Natural England concur with this assessment.

### **6.0 Conclusion and Planning Balance**

6.1 The proposal is for an acceptable re-use of an existing residential unit within a sustainable city centre location. The proposal will provide a modest increase to housing numbers at a time when the Council does not have a five-year housing land supply. Whilst it is recognised that the site is opposite a licenced public house and LMV with potential for adverse noise impacts, Officers are confident that satisfactory internal noise levels can be achieved with appropriate mitigation to be provided by the

'agent of change', which will also be an improvement on the current situation. In turn, this will considerably reduce the likelihood of any noise complaints being received in relation to the existing LMV. Subject to conditions, the proposal is also acceptable in terms of the other relevant material considerations discussed above, and as such is recommended for approval.

## Recommendation

That Planning Permission **BE GRANTED** subject to the following conditions:

Condition no.	Description	Type
1	Standard Timescale	Standard
2	Development in Accordance with Approved Plans	Standard
3	Details and Provision of Noise Mitigation	Prior to Occupation
4	Provision of Cycle Parking	Prior to Occupation
5	Provision of Window Blackouts	Prior to Occupation
6	Homeowner/Tenant Information Packs	Prior to Occupation

### **Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

In accordance with the above legislation, Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been made having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/Guidance.

### **Background Papers**

None