

DELEGATED DECISION REPORT

HPK/2024/0369
Valid 30/08/2024

41 UNION ROAD
NEW MILLS

APPLICATION FOR REMOVAL
OF CONDITION 2
IN RELATION TO
APPLICATION HPK/2023/0124

(FULL - MINOR)

MAIN ISSUES

- Residential Amenity

DESCRIPTION OF SITE

The application site comprises a first floor flat, situated above a barber shop, in a row of terrace properties in a main commercial street in New Mills.

The site is bounded to the rear by a service road area used for parking and back yards associated to neighbouring residential/commercial properties. The property sits between number 39 and number 43 Union Road, both mixed commercial/residential properties.

The site lies within the built up area boundary of New Mills and within the Conservation Area, as defined in the High Peak Local Plan.

PROPOSAL

The application seeks to remove condition 2 of HPK/2023/0124 which stipulated:

The development hereby permitted shall be occupied solely by one person and shall not be used by any other persons as their sole or main residence.

Reason: In the interests of the amenity of occupants on account of the constrained living space in accordance with Policy H3 and the Nationally Described Space Standards.

HPK/2023/0124 sought retention of first floor flat as 1 bedroom flat.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

S1 – Sustainable development principles
S1a – Presumption in favour of sustainable development
S2 – Settlement hierarchy

S6 – Central Sub-area Strategy
EQ1 – Climate change
EQ6 – Design and place making
EQ7 – Built and historic environment
E4 – Change of use of existing business land and premises
H1 – Location of Housing Development
H3 – New Housing Development
CF6 – Accessibility by public transport

National Planning Policy Framework

12. Achieving well-designed places
16. Conserving and enhancing the historic environment

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2023/0124: Retention of Use of first floor as 1 bedroom flat – Approved
16.06.23

HPK/2023/0123 Retrospective permission for erection of rear access staircase,
replacement external door at first floor and timber canopy – Approved 31.08.23

HPK/0003/2798 Conversion to meeting rooms and offices for new mills volunteer
centre – Approved 1993

HPK/0003/2393 Conversion of first floor into flat – Approved 1993

HPK/0002/9197 Projecting illuminated sign – Refused 1990

HPK/0002/7404 Shop Sign – Approved 1989

HPK/0002/6924 New shop window and entrance, new toilet to rear of shop –
Approved 1988

CONSULTATIONS

Publicity

Site Notice expiry date: 03.10.24
Neighbour consultation period ends: 03.10.24
Press Advert: 10.10.24

Public Comments

None received

Town / Parish Comments

No comments received

OFFICER COMMENTS

The principle of residential use of the property was accepted through the granting of planning permission HPK/2023/0124 which retrospectively gave permission for the first floor of the building to be used as a residential flat.

Notwithstanding, the use of the first floor being acceptable as a residential dwelling, condition 2 was imposed:

2. The development hereby permitted shall be occupied solely by one person and shall not be used by any other persons as their sole or main residence.

Reason: In the interests of the amenity of occupants on account of the constrained living space in accordance with Policy H3 and the Nationally Described Space Standards.

This condition was imposed due to the accommodation being very small, the total floor space of the flat is 40.7sq.m which only just complies with the minimum Nationally Described Space Standards (NDSS) for a 1B1P flat which is 39sq.m. The bedroom in the flat is only classified as a single bedroom space by the NDSS and measures 2.46m x 3.07m (7.5 sqm) which is the exact minimum size specified by the NDSS for a single room. In order to be considered a two bedspace property, the minimum bedroom size should have a floor area of 11.5 sq.m and be at least 2.75m wide.

As noted, the accommodation only has a single bedroom and therefore should only be occupied by one person, otherwise it is deemed as overcrowded and makes it unacceptable in planning terms due to the NDSS non-compliance.

The request to have this condition removed would result in the residential flat being non-compliant with the NDSS, this is not an acceptable situation as policy H3 seeks all new residential dwellings to meet NDSS.

The Agent has suggested that the condition should be removed as it does not meet 6 tests for planning conditions.

However, the condition does meet these tests; it is necessary and relevant to make the development acceptable, without the imposition of this condition on the recent planning permission (HPK/2023/0124) it would have been refused on the grounds of it being non-compliant with the NDSS. The applicant contends that the condition is not necessary because the building has previously been granted planning consent for a first floor flat. However, this was in 1993, and since this time the Council has adopted its Local Plan in 2016 and specifically policy H3, which requires compliance with NDSS standards. The Council seeks to support policy compliant development, unless

materials consideration indicates otherwise. In this case, there are no other material considerations that the Council is aware of.

Moreover, it is an enforceable condition as checks can be made to Council tax and electoral services to review occupation levels. In addition it is a precisely worded in that the condition identifies that the flat is only suitable for occupation by one person, and anyone else cannot regard the flat as their main or sole residence but could, for example visit without restriction. It is also reasonable in other respects, as it is fair on the applicant and any other persons who may consider purchasing and/or renting the flat, in that it is only suitable for single occupancy, given its limited floor space. This is expressly set out in the reason for imposing the condition i.e its *constrained living space*.

It is concluded that condition 2 is required to ensure that the dwelling is not over-occupied, it is reasonable and necessary and meets the planning condition tests, without the condition the use would be contrary to policy H3.

CONCLUSION / PLANNING BALANCE

In summary, the application to remove condition 2 of HPK/2023/0124 is contrary to local plan policy H3 which ensure that all residential development meet the minimum nationally described space standards and is therefore recommended for refusal.

OFFICER RECOMMENDATION : Refuse

Case Officer: Rosie Dinnen

Recommendation Date: 22.10.24

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council