

Date of Meeting	14 th December 2023
Application Number	PL/2023/06801
Type of application	Full planning permission
Site Address	Second Floor, 31 Brown Street, Salisbury, SP1 2AS
Proposal	Change of use from office/medical use (Class E) to a dwelling (Class C3)
Recommendation	Refuse
Applicant	Breckenwood Ltd
Town/Parish Council	Salisbury CP
Electoral Division	Salisbury St. Edmund's ED
Case Officer	Julie Mitchell

Reason for the application being considered by Committee

At the request of the elected member Cllr Paul Sample for the reasons that the application would reuse redundant offices and deliver an affordable flat to rent or buy.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be refused.

2. Report Summary

The main issues to consider are:

- Principle of development
- Residential amenity
- Highways (parking)
- Visual and heritage impacts
- River Avon SAC catchment

3. Site Description

The application site comprises a second floor office suite within a purpose built complex of offices known as Chequers Court which were constructed in the 1980's. The site lies at the

northern end of the block. The ground floor and first floor beneath the application site continue to operate as commercial premises for a Podiatry Practice. Permission for the use of 31 Brown Street to include health services in addition to office uses was previously granted on the basis that the use remained commercial. From what can be ascertained by external inspection and name plates on the entrance doors, the remainder of Chequers Court remains in commercial use as office space.

The immediately adjacent use to the north of the site operates as a licenced night time venue, No. 29 Brown Street formerly being part of a long established nightclub which is now physically separated internally from the nightclub and now operates under separate management as a bar serving food and drink. The forecourt to No. 29 Brown Street has a more recent permission for use as an outdoor hospitality area following the demolition of a building formerly occupied by a charity. The outside hospitality area is an integral feature of the licenced premises.

The site is located within the city centre of Salisbury and lies within the Conservation Area.

4. Planning History

S/1985/1687 - Erection of 6 No. 3-storey office units and construction of access

S/1986/1293 - Erection of 6 No. 3-storey office units without compliance with condition no. 2 of planning permission s/85/1687

S/2022/1354 - Change of use from office on ground floor to use as chiropody/podiatry clinic D1

S/2007/1661 - Change of use of office premises to podiatrists clinic (Class D1) - Ground floor, 31 Brown Street

S/2010/0651 - Change of use of second floor from B1 (office) to D1 (Chiropody and Podiatric Clinic) - Second floor, 31 Brown Street

PL/2023/03417 - Change of use from office/medical use (Class E) to a dwelling (Class C3) - Withdrawn

29 AND 29A Brown Street:

PL/2021/04305 - Demolition of existing building 29A Brown Street, erection of gates and railings as modification to the front facade of 29 Brown Street (Sarum 76) - Approved

5. The Proposal

The application is a full application for change of use of the second (top) floor of No. 31 Brown Street from office/health services to a self-contained residential unit comprising 2 bedrooms and living room, kitchen and bathroom facilities. There are no external alterations to the building associated with the change of use.

6. Local Planning Policy

National Context:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)
Planning (Listed Buildings and Conservation Areas) Act 1990
National Design Guide (NDG)

Local Context:

Wiltshire Core Strategy (WCS) adopted 2015
Core Policy 1 - Settlement Strategy
Core Policy 2 - Delivery Strategy
Core Policy 3 - Infrastructure Requirements
Core Policy 20 - Development in the Salisbury Community Area
Core Policy 35 – Employment sites
Core Policy 38 - Retail and leisure
Core Policy 41 - Energy Strategy
Core Policy 43 - Providing Affordable Housing
Core Policy 50 - Biodiversity and Geodiversity
Core Policy 52 - Green Infrastructure
Core Policy 57 - Design and amenity
Core Policy 58 - Ensuring the conservation of the historic environment
Core Policy 60 – Sustainable Transport
Core Policy 61 – Transport and New Development
Core Policy 64 – Demand Management
Core Policy 67 - Drainage and flooding
Core Policy 68 - Water resources
Core Policy 69 - Protection of River Avon SAC

Wiltshire Housing Site Allocations Plan (February 2020) (WHSAP)
Housing Land Supply Statement Published April 2022

Adopted Salisbury District Local Plan saved policies:

D4 - Eastern Chequers
E4 - Eastern Chequers
H4 - Eastern Chequers
H8 - Housing Policy Boundary of Salisbury
R2 – Recreational Open Space

Waste Core Strategy 2006-2026

Wiltshire Local Transport Plan 2011-2026:
Car Parking Strategy (Policy PS6 - Residential parking standards)
Cycling Strategy

7. Summary of consultation responses

Salisbury City Council

No comments received.

WC Public Protection

The development site is located on the top floor of an existing office block, and is immediately adjacent to an outdoor Licenced Premise which is permitted to operate in accordance with the premises licence/ any associated planning conditions and includes amplified music (live and recorded). A 5m high acoustic barrier was erected between the development site and Licenced Premise, as part of the planning permission for the licenced premise, to protect the amenity of existing nearby residents, however the development site is situated above the top of the barrier and therefore, it will not afford any protection from noise associated with the licenced premise to any future occupiers of the proposed residential development.

I have carefully read the noise report completed by Clement Acoustics (dated 8 August 2023 Ref 18508-EBF-01), which has been submitted with the application and note passive wall ventilation and glazing is recommended to mitigate noise from nearby plant, road traffic noise and noise associated with the neighbouring licenced premise.

The author refers to AVO (Acoustic Ventilation & Overheating) Guidelines and comments on page 12 of the report the internal noise levels 'do not reach the AVO threshold for significance on either the front or rear façades, indicating the use of openable windows could be an acceptable solution for rooms with windows opening, with the exception of night time hours during worst case operation of the Brown street Premises'.

The AVO guidance is at odds with guidance provided by WHO and BS8233 for indoor ambient noise levels for dwellings. The author of the report fails to outline in the report internal ambient noise levels, in accordance with WHO and BS8233, cannot be achieved when windows are open for purge ventilation. The predicted internal noise levels with windows open for 'worst case scenario' i.e. when regulated entertainment is taking place outside at the neighbouring licenced premise, are predicted to be 49dB (day and night) on the rear façade. As such, WHO and BS8233 guidance for internal ambient noise levels will be exceeded by 19dB night time and 14dB day time with windows open. Equally, outside of predicted worst case scenario, with windows open, internal noise levels will be exceeded by 14dB daytime and 11dB night time on the front façade, and 5dB day time and 5dB night time on the rear façade.

It is reasonable that any future occupants of the proposed development will wish to have windows open and should not be expected to keep them closed at all times; and be able to sleep without disturbance from activities and noise associated with the neighbouring licenced premise or other licenced premise in the vicinity (i.e. Epic Bar @ The Chapel).

This department will not accept any strategy that recommends the use of non-openable windows for residential properties as a means of securing the internal acoustic environment. Where openable windows are provided, this department will not accept a strategy that relies on the occupier of the noise sensitive premises having to close the window during noisy activities. For proposed new residential development with entertainment premises nearby, the design aim should be for music to be 'inaudible' within habitable rooms with windows open.

We therefore recommend refusal of this application as it has not been demonstrated that internal ambient noise levels in accordance with WHO and BS8233 can be achieved with windows open.

Additional comments received:

The licenced premise planning application was assessed in relation to the existing residential properties, and did not consider the possibility of unknown future residential properties which may be located in closer proximity to the site than existing residential properties. The mitigation to control noise from the licenced premise site was conditioned as part of the approval to protect the amenity of those existing residents.

The potential impact of noise from the licenced premise on any future occupants of the proposed residential property is not considered to be 'unidentifiable city centre noise', and therefore, it is foreseeable that if this application were to be approved, future occupants may be adversely impacted by noise associated with an identifiable source i.e. the outside licenced premise which is operating in accordance with the conditions of the premises licence and planning consent.

WC Highways

There is no Highway objection to the proposal to change the use of the second floor of the existing building from an office / medical use (class E) to a dwelling (class C3). The site is in a most sustainable location within Salisbury City centre, close to amenities and public transport opportunities. It meets the criteria for a relaxation in allocated car parking as set out in policy PS6 of the Wiltshire Parking Strategy. The provision for covered and secure cycle parking should be provided if possible.

8. Publicity

A third party representation of objection has been made by the business operating from the adjacent site as follows:

- Rude Giant Brewing Company Limited owns and operates Salisbury's largest independent large music venue next door (formerly Knightwood Leisure T/A Brown Street).
- The business employs five full time members of staff, and 12 members of part time staff.
- The premises itself has a well-regarded reputation as an independent music space, providing a venue for local musicians and music producers to exhibit their work.
- Moreover, the premises supports a number of independent food and drink producers.
- The business also works hard to ensure its activities cause as little disruption as possible to its neighbours.
- Directors of the business engage in frequent consultations with neighbours, and Beerhouse standard operating procedures have been modified as a result.
- However, if a dwelling was created directly adjacent to the Beerhouse outside space, it is likely that even very basic sound levels coming from the Beerhouse would exceed the maximum acceptable noise levels heard from the dwelling.
- Change of use of the top floor of 31 Brown Street from office space to residential use will threaten the future viability of the Rude Giant Beerhouse.
- It is frankly unreasonable for a hospitality and live music space to regulate its sound output to the level required to make adjacent residential space that is so close to the venue habitable, based on permitted noise levels outlined in Public Protection's comment already logged on this application.

- Our concern is the challenge the business will face in managing future occupants' noise expectations given the close proximity between the proposed dwelling and the Rude Giant Beerhouse; and the inability of the business to substantially reduce the noise output to required levels were there a dwelling in place, whilst also remaining viable in its current form.
- Due to the above, we object to the proposed new dwelling, and hope the Planning Authorities will make note of our concerns.

A representation of support has been made by Cllr Paul Sample, the divisional member for the area in which the site is located:

- When I was elected in 2021 I said that I would support, wherever possible, applications to turn redundant offices in affordable flats to rent or buy.
- This application delivers another MUCH NEEDED flat and contributes to my aim to repopulate the centre of the City.
- Any resident buying a property near a licensed premises will know that the consequences of living near a popular venue will be some disturbance and this will be reflected in the price that they pay for the purchase (or rent) of the property.
- I believe that the PPO's objection is nonsensical.
- We would have no flats over or near licensed premises if we took that approach.
- I therefore ENTHUSIASTICALLY support this application.
- If the planning officer is minded to reject the application then I would ask to call it in for a full report and discussion by committee.
- I have had no objections from local residents to this application.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Principle of Development:

The proposed site forms part of a three-storey purpose built block of offices constructed in the 1980's. The end unit, 31 Brown Street, has been subject to previous planning applications for change of use from office (B1 use) to chiropody/podiatry clinic (D1) which the application states remains the use at ground and first floor level. The second floor, which is subject to this application, is currently vacant and which the planning statement describes comprises an "office suite" arranged as 3 rooms, with kitchen facilities (85 sq m) and which has been marketed as an office suite with planning for medical use with optional parking.

Whilst the last planning permission is subject to condition that it is only to be used for D1 use, classes B1 and D1 have been superseded and the majority of such previous uses now fall within the same use class of the amended Use Classes Order, Class E, which includes a broader range of uses with the intention of allowing for greater flexibility between commercial and service uses in town centres. Additionally Class MA of the amended General Permitted

Development Order allows for development consisting of the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order, subject to a number of limitations and exclusions as well as a requirement for a determination of whether prior approval is required in respect of the impacts and risks, namely transport impacts, contamination risks, flooding risks, impacts of noise from commercial premises on the intended occupiers of the development; the character or sustainability of the conservation area; the provision of adequate natural light in all habitable rooms; the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; the impact on the local provision of the type of services lost where it involves the loss of a registered nursery or health centre maintained under section 2 or 3 of the National Health Service Act; and the fire safety impacts on the intended occupants of the building.

In this case however, a full planning application is made due to the restrictive condition which would prevent the permitted development rights being relied upon. Nevertheless, were the LPA to remove the condition via a S73 application, the considerations listed for permitted development to be considered includes the main issues which are relevant to the consideration of a full application and importantly, this included noise from commercial premises.

The top floor of No. 31 was formerly used as part of the premises for the occupiers of the ground and first floor which is evident from the planning history and condition which relates to the D1 use. It is understood to now be surplus to the requirements of the business and has been subject to marketing of the top floor offices only for office/medical use. The application is accompanied by details of the marketing undertaken, this indicates that it has not been possible to secure a tenant for the top floor office space, with the main reasons cited as accessibility due to there being no lift and limitations of the floor area and facilities. This is potentially as a result of the top floor being offered in isolation to the ground and first floors which may be more attractive to future occupiers as a whole, however the vacancy of the premises is a material consideration in the overall planning balance.

It is acknowledged that the principle of conversion to residential use is broadly acceptable, having regard to both the permitted development rights and by current policy, which is generally supportive of residential uses in town and city centres. However, this acceptability would be subject to the consideration of the loss of the existing use and compatibility of the residential use with adjacent uses. The site is not within the primary or secondary shopping frontages and is also above ground floor level. The loss of office space or private health/medical practice rooms would not constitute grounds for refusal in principle. The site lies within Flood Zone 2, but as a change of use above ground floor level, there would be no requirement for the sequential test to be applied or specific flood risk measures to be considered.

In this case, it is considered that the primary issue for consideration of residential use is the impact on future residents resulting from noise from existing commercial premises, which is set out in the next section of the report.

Residential Amenity:

Core Policy 57 states that "A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings... having regard to the **compatibility** of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)" (Emphasis added).

NPPF states that (p119) "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions"; (p126) "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work"; and (p130) "Planning policies and decisions should ensure that developments... f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users".

The consideration of noise, and its effects of living conditions, is also highlighted elsewhere in the NPPF, (p185), "Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life" and (p174): "Planning policies and decisions should contribute to and enhance the natural and local environment by... e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability".

The offices which are subject to this application are at second floor level in a purpose built office block. The units at ground and first floor below the site are used for health/medical service provision and the adjoining offices within the Chequers Court building remain in use as offices as far as can be ascertained from the external appearance and planning history. It is noted that there are air conditioning units immediately below the proposed bedroom window on the rear elevation and units at first and ground floor level. Further information provided confirms that the units immediately below the windows can be removed as they would not be required in the event of the change of use, although it has also been acknowledged that these would potentially need to be retained if the residential unit is served by mechanical extraction.

The units at first and ground floor level, associated with the continued occupancy by Total Foot Health, are currently used during opening hours (8.30 – 17.00 Monday – Friday) and switched off at other times, although this does not appear to be a condition of any permission and therefore this could be subject to change and would not be unreasonable in a commercial building.



Proposed bedroom window in relation to acoustic barrier to the Brown Street Venue

The main issue for amenity arises from the potential conflict with the existing commercial use of the immediately adjoining site at 29 Brown Street which includes an outside hospitality space to a music venue within the ground floor of the building at 29 Brown Street, and the existing nightclub which is also located in the upper floors and beyond the premises at No. 29, having its access from Milford Street. It is understood that the existing external staircase on the front wall of No. 29 serves the nightclub as an emergency exit. In granting the use of the adjoining land as an outside hospitality area following the demolition of a vacant building, the LPA had to give careful consideration to the potential for disturbance to the nearest neighbouring properties to ensure that the approval would not result in material harm from undue noise and disturbance from music and customers. The permission was subject to a requirement for an acoustic barrier fence to be erected on the boundary to minimise the potential for noise travelling through the gap between Nos. 29 and 31 Brown Street towards Charter Court following an acoustic report which recommended this would be necessary and effective. Critically, there were no immediately adjacent residential properties at the time of consideration. The acoustic barrier which has been erected would have no similar effect on preventing noise travelling from the outside venue upwards to the proposed bedroom window on the rear elevation of 31 Brown Street and it was not designed to do so. Additionally, surveyed noise levels would have been markedly different if measured at the boundary with 31 Brown Street rather than the nearest property in Charter Court. The agreed hours of use reflected the distance to those properties and the provision of a barrier and the effect that this would achieve on minimising nuisance. Consideration was not given to 31 Brown Street since it was not in residential unit.

The side elevation of 31 Brown Street has no windows, however the photographs above show that the rear elevation window is immediately above this area and this window is to serve a bedroom. Views can also be gained into this window from the external stair case from 29 Brown Street. The previous noise assessment was specific to the assessment of noise levels at properties further away from the Brown Street venue and does not assist in the assessment of the current proposal which is located significantly closer and directly adjoining the licenced premises. There can be no assumption that because the measures were considered to prevent noise travelling to Charter Court that these would be in any way effective in preventing noise impacts on the subject building due to its much closer proximity and window directly above the

acoustic barrier fence. The current operator of the venue advertises opening hours 5 days per week, Wednesday 16:00 - 22:00 Thursday 16:00 - 23:00 Friday 16:00 - 00:00 Saturday 12:00 - 00:00 and Sunday 12:00 - 18:00 and advertises various events of live music, DJ's and Karaoke. There is clearly potential for such events to cause disturbance to occupiers of a new residential unit with its bedroom window located immediately above the outdoor space and facing the entrance to the indoor venue.

Following the withdrawal of a previous application which included no site specific noise assessment of the relationship of the proposed residential unit or any suggested mitigation measures, the current application has been accompanied by a report entitled External Building Fabric Report prepared by an acoustic consultant on the behalf of the applicant. The Council's Public Protection Officer has reviewed the report and the response is set out in full above. The results of noise measurements taken at the property over one weekend in July are acknowledged. However there is disagreement between the public protection officer and the consultant on the standards that has been applied in this case.

Subsequent discussions have taken place in which it was suggested by the agent that the windows of the proposed residential unit could be kept closed during music events and mechanical ventilation relied upon. However, it is not known whether the retention of existing or positioning of new air conditioning units below the window of the bedroom would in itself result in any noise impacts since this has not been submitted as part of the application for consideration.

In further consideration of the suggestion for closed windows/mechanical ventilation, the Public Protection Officer has reiterated that "*The developer is the 'agent of change' in this situation, it is their responsibility to put forward measures that will mitigate their application to make it possible to proceed without detriment to the amenity of future residents and the viability of existing businesses. The assessment and proposed mitigation may have demonstrated that BS8233 levels can be achieved with windows closed but BS8233 levels are for steady continuous noise such as anonymous city noise, not for noise specifically from a licenced premises.*" It is evident from site inspection of the proximity of the bedroom window to the licenced premises that the nature of noise is likely to be markedly different to anonymous noise within a city location.

The LPA could not require the occupiers of the proposed apartment to close their windows via condition. Any future occupiers would retain the right to make a complaint about noise levels. The Environmental Protection Act places a legal duty on the Council to investigate complaints of alleged statutory nuisance and there is a general duty to survey the area for matters amounting to a statutory nuisance and to cause them to be abated, which would be likely to have significant impact on the ability of the adjacent premises to continue operating. The management of the premises have submitted an objection of their concerns which is set out earlier in the report.

Whilst future occupiers of the flat would likely be aware of the relationship when taking a tenancy or ownership, officers are advised by the Public Protection Officer that "*In statutory nuisance this is specifically dealt with under what is termed "coming to the nuisance". The House of Lords has long held just because someone moved into an area recently, does not mean they are prevented from making a complaint against a pre-existing activity. If it transpires*

that activity now amounts to a statutory nuisance then the source of the activity must abate the nuisance. With any approval of this application, the 'nature of the locality' will have changed and this is why the 'Agent of Change principle' is fundamental in protecting existing businesses. Long established night time venues in London & the Metropolitans that are household names up and down the country have been threatened with closure,, and some have closed as a result of this House of Lords precedent."

The consideration of the Council's duties under the Environmental Protection Act is not specifically a material planning consideration, however the issue of noise and compatibility of proposed uses with their immediate environs is embodied in development plan policy and the NPPF and it is therefore a material consideration whether the proposed use is likely to be affected by the existing use. Officers consider that whether existing commercial uses would be likely to be unduly restricted, or potentially discontinued, by the approval of a change of use is also a material consideration in the determination of this application.

It is evident from site inspection that the acoustic barrier which was installed to prevent noise travelling towards existing residential properties from the premises at 29 Brown Street, this would provide no protection for windows located directly above it. It is further evident from site inspection that there are no apparent measures which could be required by condition on any permission granted in respect of 31 Brown Street to reduce the potential for future occupiers to be affected by the normal business activity at the adjacent premises. It is also evident that, in the event of Noise Abatement Notice being served on the licenced premises, there are no obvious or reasonable attenuation measures that the management could resort to. Officers therefore consider it highly unlikely that the relative positioning of a bedroom window in relation to the existing licensed hospitality venues, including suggested measures for the windows to be kept closed with mechanical ventilation, would ensure that the proposed residential use and established commercial use on the adjoining sites would be compatible. It is therefore concluded that there would be clear conflict with the aims of Core Policy 57 and the NPPF.

Additionally, whilst the permitted development rights under Class Class MA are indicative of changes of use to residential being supported in principle through legislation, this is subject to the requirement for consideration of impacts of noise from commercial premises on the intended occupiers of the development. As such it is clearly recognised that the change of use of commercial properties to residential may not be acceptable in all circumstances. A general presumption in favour by planning policy and legislation does not indicate that the proposed use would be compatible with existing uses. On the advise of the Council's Public Protection Officer, the proposal and accompanying report does not satisfactorily demonstrate that the amenities of occupiers of the proposed apartment would not be subject to unacceptable noise and disturbance from established licenced premises.

Highways Impact:

The existing office block is served by a car parking to the rear. However, the application confirms that no space is allocated for the proposed residential accommodation. The highways officer has confirmed that as the site is located in the centre of Salisbury close to public transport links, services and amenities that future occupiers will require, a car free development is accepted and no highway objection is raised in this instance.

Heritage, Design and Visual Impact:

As submitted, there are no physical changes which would affect the exterior of this modern building and as such there is no visual or heritage impact.

Ecology:

This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorous mitigation strategy to offset all planned residential development, both sewered and non-sewered, permitted during this period. The strategy also covers non-residential development with the following exceptions:

- Development which generates wastewater as part of its commercial processes other than those associated directly with employees (e.g. vehicle wash, agricultural buildings for livestock, fish farms, laundries etc)
- Development which provides overnight accommodation for people whose main address is outside the catchment (e.g. tourist, business or student accommodation, etc)

Following the cabinets resolution on 5th January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a generic appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This was endorsed by Natural England on 7 January 2021 and continues to be applicable. As this application for change of use to a single residential unit would fall within the scope of the mitigation strategy and generic appropriate assessment, it can be concluded that it will not lead to adverse impacts alone and in combination with other plans and projects on the River Avon SAC if approved.

10. Conclusion (Planning Balance):

In principle, the change of use of the existing second floor office suite to residential use can be considered acceptable in that the provision of an additional unit of residential accommodation which makes use of a commercial unit which is currently vacant would create some associated benefits in terms of a very modest contribution to housing supply in a sustainable location. However, the creation of habitable accommodation in a commercial area, whether through a full planning application or permitted development rights, is subject to consideration of the impacts of noise from commercial premises on the occupiers of the proposed accommodation. On the advice of the Council's Public Protection Officer, it is concluded that the proposed residential use is incompatible with existing commercial uses and that significant conflict is likely to arise from the close proximity of the proposed bedroom window to established commercial uses which include an open air hospitality area associated with a licenced music venue. The likelihood of regular disturbance from noise would result in an unacceptable standard of amenity for occupiers. The option of fixed glazing and mechanical ventilation would not be satisfactory means of achieving an adequate standard of amenity and the potential noise effects of mechanical ventilation which would necessarily be located immediately below a bedroom window have not been demonstrated. It is considered neither

possible nor reasonable to seek to limit the activity of an established licenced premises in order to secure an appropriate environment for a new residential use. The benefits of the re-use of office space accommodation and contribution to housing supply would not outweigh the amenity conflict and potential adverse economic impact on existing commercial uses.

RECOMMENDATION

Refuse for the following reason:

Reason: (1)

1. The layout of the proposed residential unit would have a bedroom with a large window on the rear elevation of the building, positioned immediately above the noise reducing barrier to the adjacent outdoor hospitality venue and facing the existing licenced premises at 29 Brown Street which includes an external staircase and the proximity and relationship of the proposed residential use is considered incompatible with the nature of established commercial uses in the immediate vicinity of habitable rooms. The proposal has failed to satisfactorily demonstrate that future occupiers of the proposed residential accommodation would not be adversely affected by noise and disturbance from activity at established commercial premises and therefore fails to demonstrate a satisfactory standard of amenity, contrary to Policy CP57 of the Wiltshire Core Strategy and the aims of the National Planning Policy Framework, in particular paragraphs 119, 124, 126 and 130, which collectively require a high standard of amenity for existing and future occupiers.