

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 70**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS**

**Reference No:** 2017/62/92924/W

**Site Address:** Tower Works, York Avenue, Fartown, Huddersfield,  
HD2 2QR

**Description:** Alterations to first floor to form living accommodation,  
formation of pitched roof and cladding to external  
walls, and erection of storage unit

**Recommending Officer:** William Simcock

**DECISION – Full Conditional Permission**

**I hereby authorise the approval of this application for the reasons set  
out in the officer's report and recommendation annexed below in  
respect of the above matter.**

Neil Bearcroft

***AUTHORISED OFFICER***

**Date: 01-Nov-2017**

## **Officer Report**

### **Site Description**

Tower Works comprises half of a large brick building, a forecourt to the front or north side, and associated hard-surfaced land to the west which is enclosed by a palisade fence. It is two-storey with a flat roof; the adjoining half is in the same ownership but not part of the application site. The southern and western boundaries are formed by timber fencing. The land gently rises towards the west.

The building and site are currently unused. According to the applicant the most recent use was as a vehicle repairs garage, and it is intended that this use is to be resumed.

The surrounding area is mainly residential except for the lower end of York Avenue near the junction with Bradford Road where there is a tyre fitting centre.

### **Description of Proposal**

The proposal is for the change of use of the upper floor of the building to a dwelling, associated alterations, and the formation of a free-standing storage building within the site.

The proposed dwelling would have three bedrooms. Access would be by an external staircase on the west side of the building. The alterations would involve the formation of a pitched roof in tiles, and light grey cladding is to be applied to the walls of the existing building at first floor. The same artificial cladding would be used for the storage building, roof and walls.

The storage building would measure 15.75m by 9.5m, and 4.8m to the top of the shallow-pitched roof.

The sites existing use as a garage/workshop at the ground floor level would be retained, and the submitted details state that the residential flat would be occupied by the owner/manager of the workshop.

### **History of negotiations/amendments received**

13-Oct-2017: Amendments were secured to the layout to clarify the parking arrangements and provide segregated vehicular access arrangements.

### **Relevant Planning History**

None.

## **Representations**

**Final publicity date Expires:** 26-Sep-2017

3 representations received, of which 2 objections, 1 comment.

Summary of points raised:

1. Loss of privacy because of rear-facing windows
2. What is to be stored in the new unit, and will it be used for sales?

## **Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

Environmental Services – Acceptable subject to conditions.

Highways – Acceptable in principle subject to safe means of access to the flat.

## **Policy**

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP Proposals Map and without designation on Kirklees Publication Draft Local Plan.

### **Kirklees Unitary Development Plan:**

- **D2** – Unallocated land
- **B5** – Extensions to business premises
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **EP4** – Noise-generating and noise-sensitive development
- **T10** – Highway safety
- **T19** – Parking
- **G6** – Contaminated Land

### **Kirklees Publication Draft Local Plan (PDLP):**

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP21** – Highway safety and access
- **PLP 24** – Design
- **PLP52** - Protection and improvement of environmental quality
- **PLP53** - Contaminated and unstable land

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Core Planning Principles
- Chapter 7 – Requiring good design
- Chapter 11 – Conserving and enhancing the natural environment.

### **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity (including any heritage considerations)
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters – e.g. trees/ecology (e.g. bats)
- 6) Representations
- 7) Conclusion

1 – Principle of development: The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.

Other Policies of relevance are B5 (extensions to business premises will be permitted subject to amenity and highway safety), BE1 and BE2 (development should respect surroundings, promote safety and contribute to a sense of local identity), BE12 (new dwellings to provide adequate privacy and space about buildings), EP4 (impact on noise-generating on noise-sensitive development to be considered) and T10 and T19 (development should not create or materially add to highway safety problems, and should provide a suitable amount of parking).

Within the NPPF, it will be assessed having regard to the advice to drive sustainable economic development and to support existing business sectors in “Core planning principles” and “Building a strong competitive economy”, and to consider potential pollution issues as set out in “Conserving and enhancing the natural environment”. As the site is in an accessible location and would support the viability of a site with an established business or employment use, it is considered to be support sustainable economic development and would be acceptable in principle subject to amenity, environmental and highway issues.

All these considerations are addressed later in this assessment.

2 – Impact on visual amenity: It is considered that the works to form the roof to the proposed residential flat would improve the appearance of the building and that in the context of the existing industrial building and its large curtilage, the proposed storage building would not amount to overdevelopment or seem out of keeping by reason of its footprint or height.

It is considered that the use of grey profiled metal cladding (details have been supplied) for the exterior of the storage building and the re-cladding of the upper part of the existing building would be appropriate for the location and for the style of the building. In fact it might even result in an improvement to the existing building which is painted brick. The roof of the building is proposed to be tiles – a mix of red and grey profiled tiles are used in the vicinity with some blue slate – it is considered on balance that no further details are necessary. In conclusion, the development would not adversely affect visual amenity and would accord with the aims of Policies BE1-2.

3 – Impact on residential amenity:

*Proposed detached storage building:*

The proposed detached building would have a wall height of 3.5m and would be built using cut and fill so that land levels would be slightly raised at the eastern end and lowered at the western end. The houses at 20 and 22 Ripon Avenue to the south of the site which would be the most affected appear to have higher ground levels than the application site to begin with (the boundary fence is approximately 1.8 to 1.9m high and the neighbouring garages reach about a further metre above this). It would appear that their ground floor rear-facing windows would be 11m from the boundary and 12m from the new

development. To the west it would face the side wall of a garage and porch belonging to 5 York Avenue. The garage has a window in facing the application site but as this would not be classed as a habitable room very little weight can be placed upon it. No objections have been made by either of these properties and it is considered on balance that it would not lead to a loss of residential amenity.

The windows in the proposed new building would not overlook neighbouring properties and owing to the topography and existing fencing it is considered there would be negligible potential for overlooking to the south and west in any case.

*Proposed residential flat:*

The new apartment would have habitable room windows facing all four directions. To the north these would look out over the street and would not be close enough to affect the privacy of the facing dwelling, 12 York Avenue. To the west they would look out over the application site and would comply with minimum distances in BE12. To the east they would be over 12m from the boundary with adjacent undeveloped land.

To the south there would be living room windows facing the boundary only 3m away and approximately 14.5 metres from the rear elevation of properties on Ripon Avenue. This aspect of the proposal has given rise to objections and it is considered that the potential for loss of privacy is severe if no counter-measures are taken. If it is conditioned that these are replaced with obscurely glazed windows at the highest grade, this is considered sufficient to protect the neighbours' privacy. As the living room also has an outlook to the east and west it should not present any practical problems for the development.

The flat would be liable to experience higher than average levels of noise from the use of the site for vehicle repairs or from other B2 uses that may take its place in future. Based on Environmental Health advice it is considered that this can be adequately controlled but a full acoustic report will be required before the dwelling is occupied so as to assess the noise climate and determine what attenuation measures are required. Subject to this it is considered that the occupants of the flat would enjoy an acceptable degree of amenity. The layout would not be ideal as the dwelling would not have a garden or any other form of private or shared amenity space, but it is considered it would be difficult to justify a refusal on these grounds.

Subject to the above conditions it would not give rise to loss of residential amenity for existing or future occupant and would accord with the aims of D2, EP4 and B5.

4 – Impact on highway safety: The standard parking requirement for B2 uses set out in Appendix 2 of the UDP is 1 per 50 sq m for locations with medium public transport accessibility, or minimum operational requirement for good public transport accessibility. The site is close to Bradford Road which has a very frequent service, so it could be classed as “good accessibility”.

It is proposed that the likely future use, as well as the most recent use, will be as a vehicle repairs workshop, which is often classed as a B2 use but is liable to be different from other B2 uses in terms of parking requirements, in that customer vehicles waiting to be attended to will require somewhere to be parked for a period of days. The erection of a storage building will take up some of the space that at present can be used for long-term parking, but as the building is to be used for storage there would be very little, if any net loss. The remaining external space can be used for employee and residential parking.

The applicant has provided a plan showing two dedicated parking spaces within the existing forecourt, and a gate in the existing fence allowing the external staircase to be conveniently reached.

It is considered that subject to the parking and pedestrian access arrangements being provided and thereafter retained, the development would not create or materially add to highway safety problems and would accord with T10.

#### 5 – Other matters:

##### *Ecology:*

The site is in the bat alert layer but the building does not appear to have any bat roost potential given the flat roof nature of the building. The standard note will be placed on the decision notice.

##### *Contaminated land:*

The possibility of contamination is considered to be low but as a precaution the standard condition about unexpected contamination will be attached.

##### *Air quality:*

To accord with Government air quality objectives and to limit greenhouse gas emissions, a single electric charge point should be installed as is standard for new dwellings.

6 – Representations: Concerns relating to privacy have been examined in the main part of the report but are highlighted here together with other issues raised.

7 – Conclusion: The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**Recommendation**

**Approve**

## **Decision Authorisation - Delegated Powers**

**Application Number:** 2017/92924

**Officer Recommendation:** CONDITIONAL FULL PERMISSION

### **Conditions and Reasons**

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies D2 and B5 of the Kirklees Unitary Development Plan and Policy PLP24 of the emerging Kirklees Publication Draft Local Plan.

3. All windows in the rear elevation of the proposed first-floor flat on the approved plan shall be non-opening and shall be fitted with obscure glazing (grade 5) before the new dwelling is first brought into use. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), windows of this type shall be retained at all times.

**Reason:** To ensure that the development does not harm the amenities of neighbouring residential property as a result of loss of privacy, and to accord with the aims of Policies D2 and BE12 of the Kirklees Unitary Development Plan and Policy PLP24 of the emerging Kirklees Publication Draft Local Plan.

4. Before the hereby approved new dwelling is first occupied, a report specifying the measures to be taken to protect the dwelling from noise from the garage below and nearby commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- i. Determine the existing noise climate.
- ii. Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development.
- iii. Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

All works specified in the approved report shall be carried out in full before the new dwelling is first occupied and such works shall be thereafter retained.

**Reason:** To ensure that future occupants do not suffer loss of amenity arising from noise generated by commercial or industrial activities on site or neighbouring land, and to accord with the aims of Policies EP4 and D2 of the Kirklees Unitary Development Plan, Policy PLP52 of the emerging Kirklees

Publication Draft Local Plan and Policies in Chapter 11 of the National Planning Policy Framework.

5. The hereby approved dwelling shall be occupied solely by the proprietor of the business being carried on at the site, people employed on site, and their dependents.

**Reason:** In the interests of residential amenity since the close relationship between residential and industrial uses would be liable to give rise to unacceptable levels of noise nuisance to future occupants who are unconnected to the business being carried on at the site, and to accord with the aims of Policies EP4 and D2 of the Kirklees Unitary Development Plan, Policy PLP52 of the emerging Kirklees Publication Draft Local Plan and Policies in Chapter 11 of the National Planning Policy Framework.

6. The parking spaces shown on the approved site plan shall be marked out and the new gate provided before the dwelling is first brought into use. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for vehicle parking and pedestrian access to the building.

**Reason:** To ensure that satisfactory parking and a safe means of access to the new dwelling are provided and retained within the site in the interests of highway and pedestrian safety and to accord with the aims of Policies T10 and BE1 of the Kirklees Unitary Development Plan.

7. One electric vehicle recharging point shall be installed within the dedicated parking area for the approved dwelling before it is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.

**Reason:** In accordance with government guidance on air quality mitigation, outlined within the Planning Practice Guidance and Chapter 10 of the National Planning Policy Framework and Policy PLP24 of the emerging Kirklees Publication Draft Local Plan, so as to promote infrastructure which encourages modes of transport with low impact on air quality.

8. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise approved in writing with the Local Planning Authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation

Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

**Reason:** To prevent risks to human health and the environment arising from pollution and to accord with the aims of Policy G6 of the Kirklees Unitary Development Plan and Policy , Policy PLP53 of the emerging Kirklees Publication Draft Local Plan Chapter 11 of the National Planning Policy Framework.

**NOTE:** Construction Noise. To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays  
08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays  
In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

**NOTE:** There is the potential for a bat roost to be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			21-Aug-2017
Location plan	1747.1		21-Aug-2017
Ground floor and site plan as proposed	1747.2	A	16-Oct-2017
Existing and proposed first floor plan	1747.3		21-Aug-2017
Existing elevations	1747.4		21-Aug-2017
Proposed elevations	1747.5		21-Aug-2017

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing and proposed part side elevation	1747.6		21-Aug-2017
Proposed storage unit elevations	1747.7	A	13-Oct-2017
Design and access statement			21-Aug-2017
Proposed material	Foregale		26-Oct-2017

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer requested the applicant submit plan showing parking arrangements.

**Report Dated:** 31-Oct-2017