

**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: 2017/62/94364/E

Site Address: Unit 8b, Birstall Shopping Park, Holden Ing Way,
Birstall, WF17 9DT

Description: Change of use of land from car parking to external
seating area and associated works

Recommending Officer: Jennifer Booth

DECISION – CONDITIONAL FULL 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.

Julia Steadman

AUTHORISED OFFICER

Date: 15-Feb-2018

OFFICER REPORT

Site Description

The site is an area within the existing car park to the south of Unit 8b at Birstall Shopping Park and currently forms two accessible parking bays and 3 standard parking bays within the car park. The existing spaces are to the front of the entrance into the recently opened Costa Coffee Shop.

Birstall Shopping Park consists of 17 retail warehouse units with associated parking for 749 vehicles.

Description of Proposal

The applicant is seeking permission for a change of use of the parking bays to form an external seating area in connection with the Costa Coffee Shop.

The red line encompasses an area which is 6.7m wide by 2.5m deep which currently hosts 5 parking spaces - 3 standard spaces and 2 accessible spaces. The proposal would remove the 3 existing standard parking bays to provide a formalised outside seating area whilst relocating the 2 accessible parking bays. The physical works would include the creation of a small outdoor seating area using materials to match the existing pedestrian walkway and installation of steel bollards to match the perimeter treatment of the existing walkways.

Relevant Planning History

The Birstall Shopping Park does have substantial planning history.

The following applications relate directly to this unit:-

2018/90217 – Advertisement consent for erection of illuminated fascia sign – Awaiting determination

2018/90057 – Non material amendment to previous permission 2017/92658 for change of use from retail (A1) to mixed use retail (A1) and restaurant and cafe (A3) and alterations to convert existing unit to 2 separate units - Approved

2017/94374 – Advertisement Consent for erection of 1 illuminated and 2 non-illuminated signs - Awaiting determination

2017/92658 - Change of use from retail (A1) to mixed use retail (A1) and restaurant and cafe (A3) and alterations to convert existing unit to 2 separate units – Approved (subject to s106)

Representations

The application was advertised by site notices and neighbour letters, which expired on 13/02/2018

As a result of the above publicity, no representations have been received.

Consultation Responses

No formal consultations were carried out. However informal discussions were held with K.C. Highways Development Management.

K.C. Highways DM – The proposal would result in the loss of three standard parking spaces whilst retaining two spaces for disabled visitors. The car park does have the capacity to allow for the loss of three spaces.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. 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. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant 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 on the PDLP.

Kirklees Unitary Development Plan:

- **D2** – Unallocated land
- **BE1** – Design principles
- **T10** – Highway Safety

Publication Draft Local Plan Policies

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP 22** - Parking
- **PLP 24** - Design

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.

- **Chapter 1** – Building a strong, competitive economy
- **Chapter 7** – Requiring good design

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on highway safety
- 3) Other matters
- 4) Representations
- 5) Negotiations
- 6) Conditions
- 7) Conclusion

1 – Principle of development:

The site is unallocated within the Unitary Development Plan. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity and the character of the surrounding area in line with the requirements of policy D2 (specific policy for development on unallocated land).

These issues along with other policy considerations will be addressed below.

2 –Impact on visual amenity:

The detail supplied within the cover letter outlines how the new seating area would be demarcated from the car park with steel bollards & paving similar to the existing treatment of the pedestrian areas. Given the location within the retail park and the similarities of the proposed works to the existing arrangements within the shopping centre, it is considered that the seating area to be formed would be an acceptable feature within the retail park.

Having taken the above into account, the proposal would not cause any significant harm to the visual amenity of either the host unit or the wider area, complying with Policies D2 and BE1 of the UDP, Policy PLP24 of the PDLP and the aims of chapter 7 of the NPPF.

3 – Impact on highway safety:

The agent has supplied information within the covering letter relating to a recent survey of the car park usage from the recent application for a new unit (2016/93480) which found that although the site has 749 parking spaces, even at peak times, there are typically 36 vacant spaces. They have also noted that the recent permission for a new unit would result in the loss of 17 of those spaces. Having informally consulted with Highways and given the vacant spaces would still typically equate to 19 spaces, the loss of 3 spaces is considered to be acceptable. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with policies D2, T10 and T19 of the UDP.

4– Other matters:

There are no other matters for consideration.

5 – Representations:

None

6 – Negotiations:

None

7 – Proposed conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.

8 – Conclusion:

This application to alter 5 existing parking spaces to form an outdoor seating area and provision of two accessible parking bays to the front of Unit 8 (b) of the Birstall Shopping Park has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed extension is considered to be acceptable.

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.

As set out above, 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:** 2017/94364**Officer Recommendation:** Approve**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, BE1, and T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22, and PLP24 of the Kirklees Publication Draft Local Plan, and the aims of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Web ID	Date Received
Location plan	A10-00-20	670643	22/12/2017
Existing site plan	A10-00-21	670645	22/12/2017
Proposed site plan	A10-00-22	670644	22/12/2017
Cover letter	L171222 SAV	670646	22/12/2017

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 Planning 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.

As the submitted plans were considered to be acceptable, no changes were sought.

Report Dated

15/02/2018
