

**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: 2018/62/90169/E

Site Address: Old Wine And Spirit Vaults, 42, Huddersfield Road,
Birstall, Batley, WF17 9AB

Description: Change of use, erection of extensions and alteration
to public house with flat above to form 6 flats (within a
Conservation Area)

Recommending Officer: Louise Bearcroft

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.**

Sarah Longbottom

AUTHORISED OFFICER

Date: 30-Apr-2018

Site Description

The application site comprises a public house “Old Wine and Spirits Vaults” located at the junction of Huddersfield Road and Brookroyd Lane at Birstall. This is a detached building of stone, render and brick construction which has some architectural merit. There is an area of hardstanding to the east and south of the building used for off-street parking and a small outdoor seating area. The surrounding area is of mixed use with commercial properties located off Huddersfield Road and residential properties to the south and east off Brookroyd Lane and John Nelson Close. The site is unallocated on the Kirklees Unitary Development Plan but located within the Birstall Conservation Area.

Description of Proposal

The application seeks permission for the change of use, extensions and alterations to the existing public house to create six flats; three on the ground floor and three at first floor. The proposed alterations/external works include:

- The erection of a first floor extension on the side (southern) elevation to create two floors of accommodation. The proposed walling materials would be natural stone.
- The removal of the existing stone roof slates and their reinstatement over a repaired structural roof frame
- The repair of damaged stonework on the front elevation.

Access would be via Brookroyd Lane and Huddersfield Road with nine off-street parking spaces proposed to the side and rear of the property. A bin store / collection point is proposed to the rear of the building, and 5 cycle lockers adjacent to Huddersfield Road.

History of negotiations/amendments received

Officers negotiated with the applicant to secure:

- Further information to justify the loss of the existing public house
- Amended plans to address the heritage concerns raised by Conservation and Design; to avoid demolition of the North elevation and to retain the character of the building.

Relevant Planning History None

Representations

The application was initially advertised by neighbour letter, site notice and press notice with the final publicity date expiring 23rd February 2018. As a result of this publicity six representations were received. A summary of the comments received is set out below:

Principle of Development

- This pub is a massive part of the community. Many local residents enjoy coming to this pub, and have done for years. This petition put up on lampposts has had regular customers upset and worried. It is the heart of the community. Too many pubs are being turned in to flats or shops.
- Concern about the loss of the public house to the Birstall community.
- Pubs are an important community asset and a social facility which is well recognised. There has been a steady decline in the number of pubs up and down the country but Birstall has suffered more than most from this decline. In the last ten years alone, the town has lost the New Inn, White Bear, Hare & Hounds, Coach & Six and Cooper's Arms from its stock of traditional pubs, leaving the Greyhound, Black Bull, Horse & Jockey and Vaults as the only remaining traditional pubs in the main body of the town. Each one has its own niche, serving different tastes and catering for varied sections of the community. The Vaults is an important part of that provision and it would be a disservice to the community if it was also to be lost.

Highway Safety

- Concern about parking facilities. Concern about disruption at the junction of Brookroyd lane and Leeds/Huddersfield road. Concern there should be an entry and exit system.
- The vaults is situated at a junction that as seen quite a few accidents, concern about future accidents rising.
- The junction as a one way road directly across from it up church road and it also as a pedestrian crossing. This crossing is a death trap waiting to happen because drivers do not take any notice of the box junction and every hour of every day drivers overtake on the crossing missing people.
- Brookroyd Lane on the same side of the pub must be designated a double yellow line road and in front of the pub/flats as this causes a severe bottle neck were you can see all 4 ways of road travel blocking the whole of this area.

Heritage Matters

- Another consideration is the unique architecture and history of the Vaults, apparently developed from some very old cottages into a traditional form of pub. The Vaults is one of very few pubs in the County to retain its central corridor and individual rooms layout, whereas almost all such pubs have been opened out according to the fashion from the 1960s onwards. It is probably the only pub in North Kirklees which has retained this feature which was once commonplace.
- The Old Wine and Spirit Vaults appears on the 1854 Ordnance Survey Plan and is marked as a building of positive character on the Birstall Conservation Area Appraisal. The main frontage and side elevations are illustrated in the appraisal as contributing in a positive manner to the significance of the conservation area. The pub is also within the immediate setting of the Grade II Listed Methodist Church of St John that stands opposite.

- The pub buildings are likely very old and there is reference to the building's existence in the 1740's. The external elevation facing Brookroyd Lane demonstrates evidence of 18th century cottages and may represent an even earlier building. In 1817 there was specific mention of the building in relation to the baptisms of children who presumably lived there and in local history there is significance of the building being built directly upon the boundary between Birstall and Batley that was marked by the, now culverted, beck.
- The building is of some significance and its external appearance may well be deceiving with elements of 18th century (or earlier) date being embedded within the present structure.
- The submitted heritage statement has failed to take into account the contribution that this building provides to the Birstall Conservation Area or the setting of St John's Church opposite. The Local Planning Authority are required under Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to show 'Special Regard' and 'Special Attention' to the impact of development upon conservation areas or listed buildings and their setting. Although less than substantial such alterations will cause a degree of harm to the designated heritage assets and 'great weight' is to be attached to desirability of preserving the heritage assets.
- The building is a fine, and unusual, example of its type and the later modifications over earlier structures only add to its significance. Despite this poor cement pointing and render, with blocked gutters has resulted in damp retention and salts can be seen seeping through the stonework in their lower courses. It may also be this that has caused the alleged bowing of the north elevation. Later UPVC windows have also eroded the special interest of the building. There is therefore a need for restoration work to be undertaken to this building and as such sensitive development in principle is supported.
- The proposed conversion of this building is concerning due to its intention to substantially alter the north range and elevation of the building and destroy any evidence of the older 18th century cottages that form part of the building. This will result in the loss of an elevation identified as being positive within the Birstall Conservation Area Appraisal and will potentially lose the earliest extant entrance and layout of fenestration. The replacement and heavy handed modification of this elevation should therefore be avoided at all costs. There is also no structural evidence provided that would necessitate the demolition of this whole elevation and a structural survey by an accredited heritage surveyor should be sought before any approval is given as there will likely be another solution to this problem.
- The principle of a first floor extension to the south side seems in principle to be acceptable however and this single storey element appears to be of Victorian date. Notwithstanding this however there should be more thorough assessment of the history of this site than is currently provided.
- Externally the proposed flats will have no amenity space and only car parking will surround the site, therefore concerns are raised about the acceptability of this and whether six flats are too many

- Concerns with the dramatic changes to this very historic building, especially to the north elevation facing Brookroyd Lane and the loss of all 18th century remnants within this building. It would appear such changes are not only harmful but unnecessary and a better design response, working around these historic elements could be advanced and supported. It is also suggested that the Conservation Area could be further enhanced through the provision of new windows of a sash type.

Amended Plans Publicity

The amended plans were re-advertised by neighbour letter expiring 17th April 2017. As a result of this publicity one additional representation has been received:

“Why would you allow someone to put in for planning on a pub (which I always thought was a listed building) but not only that it is a local to alot of people who have a joke and laugh whilst in the pub or don't forget my lively hood at this moment in time been the landlord and all hassle and stress it is causing me. When people are constantly asking 'why would they change it to flats it's a lovely place to drink'”

Consultation Responses

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

- **K.C Highway Services** – No objections
- **K.C Conservation and Design** – No objections to the amended plans
- **K.C Environmental Services** – No objections

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 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 unallocated on the Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- D2 – Unallocated Land
- BE1 – Design Principles
- BE5 – Conservation Areas
- EP4 – Noise sensitive development
- C1 – Community Facilities
- T10 – Highway Safety

Kirklees Publication Draft Local Plan (PDLP):

- PLP 21 – Highway Safety and Access
- PLP22 – Parking
- PLP 35 – Historic Environment
- PLP 48 – Community facilities and services
- PLP 51 – Protection and improvement of local air quality

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 6 – Delivering a wide choice of high quality homes
- Chapter 7 – Requiring Good Design
- Chapter 8 – Promoting Healthy Communities
- Chapter 11 – Conserving and Enhancing the Natural Environment
- Chapter 12 – Conserving and Enhancing the Historic Environment

Assessment

Principle of Development:

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 application site is located within the Birstall Conservation Area, otherwise the site is unallocated on the Unitary

Development Plan where Policy D2 applies. Policy D2 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]”. All these considerations are addressed later in this assessment. Subject to these not being prejudiced, this aspect of the proposal would be acceptable in principle in relation to policy D2.

At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development where local planning authorities should positively seek opportunities to meet the development needs of the area. Chapter 8 of the NPPF ‘promoting healthy communities’ stipulates planning policies and decision should promote opportunities for meetings between members of the community and plan positively for the provision and use of community facilities.

The ‘in principle’ assessment of the acceptability of the proposed change of use is taken by weighing up the loss of the existing public house facility serving the local community, against the benefits of the proposed use of the building for six residential dwellings.

With respect to the loss of the public house, this is an existing business which serves the local community. Comments have been made in the representations received which refer to the contribution the existing business makes to the community. The applicant was therefore asked to provide further information regarding the loss of the public house. They have responded as follows:

“I have discussed your comments with the applicant – the pub is currently operating but has seen a continuous decline in business. It is not believed to be sustainable in the long term and has a high-risk of becoming a vacant/derelict building if the change of use is not pursued. As with the many pubs in Kirklees they have been involved with these have either become supermarkets, places of workshop or flats. i.e. :

*Aletaster – Brewery Lane,
Blackers Arms - 555 Lees Hall Rd,
Old Shoulder of Mutton – Upper Road,
Whistler – Leeds Road.... etc but to name a few*

The area continues to benefit from 4 other local pubs within walking distance –

*The Horse & Jockey Inn - 97 Low Ln, Birstall
The Greyhound - 100 Huddersfield Rd Birstall
Birstall Sports & Social Club - 1 Nelson St, Birstall
Pheasant - 108 Gelderd Rd, Birstall”*

The applicant has confirmed that the public house has seen a continuous decline in business and is not considered to be sustainable in the long term. Furthermore, existing public houses within the surrounding area have been identified which continue to provide a service to the local community.

With regard to developing the site for residential purposes, the Council's deliverable land supply is below five years. In these circumstances, in accordance with the National Planning Policy Framework (NPPF) paragraph 49, "relevant policies for the supply of housing should not be considered up to date". Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. The NPPF states that the purpose of the planning system "is to contribute to the achievement of sustainable development" (para 6). NPPF notes that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in peoples' quality of life (para 9). NPPF identifies the dimensions of sustainable development as economic, social and environmental roles (para 7). A proposal to convert the building into six dwellings provides some economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF, new houses will support growth and satisfy housing needs thereby contribute to the building of a strong economy. There would be a social gain through the provision of new housing at a time of general shortage. The site is a brownfield site where national policy encourages the use of brownfield land for development.

In weighing up the loss of the public house against the benefits of residential development, the long term sustainability of the public house has been considered. On balance it is considered the redevelopment of the public house for residential development is acceptable, taking into account the existence of other local public houses within the local area which can serve the needs of local residents.

Impact on highway safety:

Policy T10 of the UDP states that "new development will not normally be permitted if it will create or materially add to highway safety or environmental problems . . ." Concerns have been raised in the representations received regarding possible disruption at the junction of Brookroyd lane and Leeds/Huddersfield Road, the fact that accidents have occurred at this junction, and that consideration should be given to providing double yellow lines along Brookroyd Lane.

The proposal is for six two-bedroomed flats with parking for nine vehicles being retained in the former pub car park. Bin storage and collection points, along with five cycle lockers, are shown on drawing no. 17.2645.06. There are two existing wide access points that will remain in use, one onto Brookroyd Lane, and the other onto the A62, Huddersfield Road. On-street parking is restricted between 7:30am and 6:00pm by virtue of a single-yellow line. Highway Services considered the proposals to be acceptable subject to a condition for appropriate surfacing and draining of the areas to be used by vehicles and/or pedestrians. Subject to this condition there would be no detrimental impact on highway safety and the proposal would accord with policy T10 of the UDP.

Heritage Issues / Impact on Visual Amenity:

The site is located within the Birstall Conservation Area. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that “in the exercise of (of planning functions), with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’. Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout.

Representations have been received in response to the initial plans publicity, including from ‘The Urban Glow Design and Heritage Ltd’ on behalf of local residents which have raised a number of heritage concerns (precised in the representations section above).

Conservation & Design are supportive of the property’s conversion to flats and the proposed first floor extension to the south side, and welcome the buildings continued use and occupation. Nevertheless, they were unable to support the scheme initially proposed.

The main concern was with regard to the proposed substantial rebuilding works to the north elevation, which is an elevation that has been identified within the Birstall Conservation Area Appraisal as contributing in a positive manner to the significance of the conservation area. With this elevation having been identified as being of significance, any works to it must be justified and fundamentally contribute to the preservation or enhancement of the character or appearance of the area. Within the supporting information it was noted that this work was proposed as a result of a structural defect, however this was not supported by a structural survey, nor had it been demonstrated that the works are the minimum measures necessary to resolve the defect. Demolition of this elevation would have destroyed all evidence of the early extant entrance and historical fenestration arrangement, and would only be considered if all efforts to retain the structure have been exhausted. The severity of the works and the resultant loss of features of architectural significance would have resulted in harm which would not have been outweighed by the limited public benefit which would arise.

In response to these concerns, amended plans have been received which now propose to retain the northern elevation of the building. Conservation and Design consider the revised plans now address their previous concerns and raise no further objections. Conditions are suggested to ensure any new roofing materials and window surrounds match those existing, that details of any replacement render to the northern elevation are first approved, and that new any new gutting is timber, fall pipes are aluminium and vents are black. The amended proposal would preserve the character and appearance of the Birstall Conservation Area and would accord with UDP policy BE5, PLP35 of the emerging Local Plan and paragraph 137 of the NPPF.

Residential Amenity

UDP policy BE12 recommends that new dwellings should be designed to provide privacy and open space for their future occupants and physical separation from adjacent property and land. UDP policy BE12 recommends minimum acceptable distances. The nearest neighbouring properties which would be affected by the development are No.2 and No.4 John Nelson Close, No.40 Huddersfield Road and No.13 Brownhill Close

In respect of the impact on No.2 John Nelson Close this is a two storey property located to the east which has a blank gable fronting onto the application site. The distance to this property from the proposed first floor bedroom windows in the eastern elevation is 12 metres which would accord with the requirements of policy BE12 of the UDP. There would be no loss of privacy to this neighbouring property and it is not considered the proposed first floor extension would result in any detrimental overshadowing impact.

In respect of the impact on No.4 John Nelson Close this is a two storey property with a blank gable fronting in part onto the application site. This neighbouring property and the existing public house are off-set from each other, however the closest relationship would be a distance of approximately 8 metres from the proposed first floor habitable room windows in the southern elevation to the rear garden area of this property. There would be an element of overlooking of a small part of the garden of this property as a result of the proposed first floor extension which does not currently exist. However, due to the orientation of the properties to each other it is not considered that there would be any detrimental loss of privacy. It is not considered the proposed first floor extension would result in any detrimental overshadowing impact as it would be separated from this property by the existing car park.

In respect of the impact on No. 40 Huddersfield Road this is a two storey property which fronts onto Huddersfield Road with a window at ground and first floor level on the gable. It is not clear if these windows serve habitable rooms, however there would be a distance of approximately 15 metres from the proposed first floor habitable room windows to this property. Taking into account the intervening road it is considered this distance would be acceptable and would not result in any detrimental loss of privacy.

In respect of the impact on No. 13 Brownhill Close this neighbouring two storey property directly fronts onto the parking area to the rear of the public house. There would be no direct relationship with the proposed habitable room windows to serve the proposed flats and there would be no loss of privacy.

In respect of the relationship with No.54 Huddersfield Road, this is located in excess of 30m away, and as such, the proposals would have no detrimental impact upon the residential amenity of the occupiers of this property, in accordance with Policy BE12.

In respect of the amenity of future occupiers of the development, Environmental Services recommend a condition to secure a report specifying the measures to be taken to protect future occupiers of the development from

road traffic noise, as well a condition to secure a ventilation scheme. Subject to the inclusion of these conditions amenity issues are addressed in accordance with policy D2 of the UDP.

Air Quality

In an application of this nature it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles is provided in accordance with the Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group (WYLES). In this case one charging point is considered sufficient and can be conditioned.

Representations

Seven representations have been received in response to the initial and amended plans publicity. The concerns raised about the loss of the public house, highway safety matters and heritage concerns have been addressed in the report above.

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 – Conditional Full Permission

Decision Authorisation - Delegated Powers

Application Number: 2018/62/90169/E

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, BE1, BE5, EP4, C1 and T10 of the Kirklees Unitary Development Plan, Policies PLP 21, PLP22, PLP35, PLP48 and PLP51 of the Kirklees Publication Draft Local Plan, as well as the aims of the National Planning Policy Framework.

3. Prior to first occupation of any flat the proposed car park hereby approved shall be laid out surfaced, marked out into bays and drained in accordance with details that have previously been approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety and sustainable drainage, and to ensure adequate space within the site for parking and in accordance with Policy T10 of the Kirklees Unitary Development Plan and Policies PLP21 and PLP22 of the Kirklees Publication Draft Local Plan.

4. A report specifying the measures to be taken to protect future occupiers of the development from road traffic noise shall be submitted to and approved in writing by the Local Planning Authority before any flat is first occupied. The report shall

(i) Determine the existing noise climate

(ii) Predict the noise climate in 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).

Thereafter no flat shall be first occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: In the interests of protecting the amenity of future occupiers of the flats from road traffic noise and to accord with the requirements of Policy EP4 of the Kirklees Unitary Development Plan and Chapter 11 of the National Planning Policy Framework.

5. A ventilation scheme to show how habitable rooms to all flats shall be ventilated without the need to open windows shall be submitted to and approved in writing by the Local Planning Authority before any flat is first occupied. Thereafter no flat shall be first occupied until all works which form part of the approved scheme have been completed and the works shall be retained and maintained in accordance with the manufacturer's instructions.
Reason: In the interests of protecting the amenity of future occupiers of the flats from road traffic noise and to accord with the requirements of Policy EP4 of the Kirklees Unitary Development Plan and Chapter 11 of the National Planning Policy Framework.
6. The first floor extension shall be constructed of natural stone and stone slates. Any replacement roofing slates shall match the existing in terms of type, colour and texture.
Reason: In the interests of conserving and enhancing the Birstall Conservation Area and to accord with Policy BE5 of the Kirklees Unitary Development Plan, Policy PLP35 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.
7. All new window surrounds shall match the existing window surrounds in terms of size and design.
Reason: In the interests of conserving and enhancing the Birstall Conservation Area and to accord with Policy BE5 of the Kirklees Unitary Development Plan, Policy PLP35 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.
8. Any new rendering works to the North elevation of the building shall be completed in accordance with details that have previously been approved in writing by the Local Planning Authority.
Reason: In the interests of conserving and enhancing the Birstall Conservation Area and to accord with Policy BE5 of the Kirklees Unitary Development Plan, Policy PLP35 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.
9. All new guttering shall be of timber construction and all down pipes of aluminium construction. All new vents shall have a black colouring.
Reason: In the interests of conserving and enhancing the Birstall Conservation Area and to accord with Policy BE5 of the Kirklees Unitary Development Plan, Policy PLP35 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Existing Site & Location Plan	17.2645.01		22.01.18
Existing Floor Plans	17.2645.02		22.01.18
Existing Elevations	17.2645.03		22.01.18
Proposed Site Plan	17.2645.06		22.01.18
Proposed Floor Plans	17.2645.04	A	03.04.18

Plan Type	Reference	Version	Date Received
Proposed Elevations	17.2645.05	A	03.04.18
Design and Access Statement			22.01.18
Heritage Statement			22.01.18

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 undertook negotiations with the applicant to secure further information to justify the loss of the existing public house and amended plans to address heritage concerns.

Report Dated: 27th April 2018