

**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: 2018/62/92402/W

Site Address: Om Is Where The Heart Is Ltd, The Studio, 23A, Carr Lane, Slaithwaite, Huddersfield, HD7 5AG

Description: Change of use of vacant builders merchant to Yoga studio with internal alterations (within a Conservation Area)

Recommending Officer: Nick Hirst

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 24-Sep-2018

Application: 2018/62/92402/W

Site: Om Is Where The Heart Is Ltd, The Studio, 23A, Carr Lane, Slaithwaite, Huddersfield, HD7 5AG

Proposal: Change of use of vacant builders merchant to Yoga studio with internal alterations (within a Conservation Area)

Site Description

The site consists of a large split level building, having a basement, ground and first floor. The ground floor is accessed from Carr Street to the front, with the basement being accessed from New Street to the rear.

This application relates to the ground floor only. It is currently vacant, with the last use being a builder's merchants / office.

Adjacent to the site is 'Om Is Where The Heart Is Ltd', a mixed use café and yoga studio.

The first floor is a tattoo parlour and the basement in A2 use; each are separate planning units.

Description of Proposal

The proposal seeks to merge the vacant building's floor space into the existing Yoga studio.

The two rear offices are to be merged into a 2nd yoga studio. The front office is to be an ancillary office and/or store. The rear kitchen is to be lockers/changing rooms.

No hours of use are specifically given, however discussions have led to the following being agreed;

Monday – Saturday: 08:00 – 21:00

Sunday and bank holidays: 08:00 – 20:00

No deliveries shall take place on Sundays or Bank Holidays.

The hours of use of the existing yoga studio / café are;

Monday – Saturday: 08:00 – 23:00

Sunday and bank holidays: 08:00 – 20:00

No deliveries shall take place on Sundays or Bank Holidays.

No external alterations are proposed

Relevant Planning History

23A, Carr Lane

2016/92829: Change of use from B1 and vacant unit (unclassified) to mixed use A3 (cafe) and D1 (non-residential institution) (within a Conservation Area) – Conditional Full Permission (Implemented)

Packhorse Buildings, Carr Lane

2011/92787: Change of use of first floor area to tattoo studio and installation of replacement shop front (within a Conservation Area) – Conditional Full Permission (Implemented)

Unit 6a, New Street

2015/93734: Change of use of empty unit to private tuition centre for children aged 5-16 and post 16 year olds (within a Conservation Area) – Conditional Full Permission (Implemented)

23a, Carr Lane,

2016/91928: Erection of illuminated sign (within a Conservation Area) – Invalid

2016/91789: Change of use from B1 and vacant (unclassified) units to mixed use split A3 (cafe) and D1 (non-residential institution) (within a Conservation Area) – Invalid

These applications sought the proposed development, however it transpired that the red line was incorrect, being around the neighbouring building. Therefore the applications were invalid.

The Studio, 23A, Carr Lane

2016/92832 – signage application – pending determination

Wharfeside Inn, Carr Lane

2016/93232: Change of use from vacant public house (Class A4) to retail (Class A1) and independent art education and training centre (Class D1) (within a Conservation Area) – Conditional Full Permission (Implemented)

2017/93722: Erection of second floor extension to form 5 apartments (within a Conservation Area) – Conditional Full Permission

History of Negotiations

None undertaken.

Representations

Final publicity date expired: 28.08.2018

No representations were received.

Consultation Responses

K.C. Environmental Health: No objection subject to condition.

Policy

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

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 48 of the National Planning Policy Framework (2018). 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 (2018), 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.

The site is Unallocated on the PLP Policies Map.

The site is within the Slaithwaite Conservation Area.

Kirklees Unitary Development Plan

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE5** – Conservation areas
- **EP4** – Noise sensitive locations
- **T10** – Highways accessibility considerations in new development

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- **PLP1** – Presumption in favour of sustainable development

- **PLP2** – Place shaping
- **PLP3** – Location of new development
- **PLP13** – Town centre uses
- **PLP21** – Highway safety and access
- **PLP24** – Design
- **PLP35** – Historic environment
- **PLP47** – Healthy, active and safe lifestyles
- **PLP52** – Protection and improvement of environmental 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 24th July 2018, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 16** – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

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

1 – Principle of development

1.1 – Sustainable Development

NPPF Paragraph 11 and PLP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

1.2 – Land allocation

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]’

All these considerations are addressed later in this assessment.

Consideration must also be given to the emerging local plan. The site is without notation on the PDLP Policies Map. PLP2 states that;

All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...

The site is within the Kirklees Rural sub-area. The listed qualities will be considered where relevant later in this assessment.

1.3 – Supporting businesses and economic development

2 – Impact on visual amenity, including the Slaithwaite Conservation Area

The site is located within the Slaithwaite Conservation Area. The council has a duty to protect the heritage value of such areas within S72 of the LB&CA Act 1990. Additionally, Policy BE5, PLP35 and NPPF Chapter 16 outline the principle of development and restrictions for development in Conservation Areas.

No physical alterations are proposed.

The proposed alterations are considered acceptable. By bringing the site back into use, after being vacant for some time, there will be a benefit to the appearance of the built environment. The proposal is considered to enhance the conservation area. The proposal is deemed to comply with Policies D2, BE1 and BE5 of the UDP, PLP24 and PLP35 of the PDLP and Chapters 12 and 16 of the NPPF.

3 – Impact on residential amenity

No physical alterations are sought, preventing overbearing and overshadowing as considerations. Regarding overlooking, the properties to the front are in excess of 25.0m away, on a higher ground level. The rear windows face the front elevations of an end terrace dwelling and the former town hall. This is at a separation distance of 11.0m. As existing windows, and given that the proposed use is non-residential, it is not considered that the arrangement would cause materially harmful overlooking, or a loss of privacy, to neighbouring residents. Conversely the proposal seeks to obscure glaze the WC/shower windows. This is to be secured via condition, to ensure this arrangement is retained, in the interest of privacy for future users.

Turning to noise pollution, the current café/yoga use has the hours;

Monday – Saturday: 08:00 – 23:00

Sunday and bank holidays: 08:00 – 20:00

No deliveries shall take place on Sundays or Bank Holidays.

However the existing business did not adjoin neighbour residential units, like the current proposal does (the original proposal has the current application site in between them and the nearest residential use). The proposal neighbouring a dwelling raised concerns of noise, and resulted in the applicant agreeing to the following hours for the application site;

Monday – Saturday: 08:00 – 21:00

Sunday and bank holidays: 08:00 – 20:00

This is in addition to a condition restricting amplified sound, which has likewise been agreed. Yoga studios, by their nature, are not considered a significant noise pollution; with the proposed conditions officers are satisfied there would be no undue harm to neighbouring residents through noise pollution.

The proposal is deemed to comply with Policies D2, EP4, PLP24, PLP52 and Chapters 12 and 15 of the NPPF.

4 – Impact on highway safety

Policies T10 and PLP21 seeks to ensure that development does not prejudice highway safety or efficiency. T19 outlines recommended parking standards for development. The proposal includes no parking spaces.

The site is located within the centre of Slaithwaite. Slaithwaite is classified as a large local centre. The area has good public transport services, which link to the greater region, and various local amenities and services. Furthermore public car parks are available nearby (inc. New Street and Carr Lane). The site is considered a sustainable location; officers considered that the need for car parking provision can be relaxed. It is noted T19 is a maximum

requirement, with the policy's preamble stating 'lower levels of provision will be appropriate where the proposed use can still operate effectively'. Given the sustainable nature of the site, this is considered to be the case.

Furthermore consideration must be given to the existing use. Currently the site has a B1 use (builder's merchants / office), with no parking spaces; therefore there is an existing shortfall. The site could be reinstated as a B1 use without planning permission. The proposed use is not considered to have a materially greater demand for parking than an office use.

Waste is to be managed as per the existing café/yoga studio's arrangement.

Therefore, taking into account the sustainable location of the site within Slaithwaite Local Centre, in addition to the existing use, on balance it is not considered that the proposal will prejudice the safe and efficient use on the highway. The proposal is deemed to comply with T10 of the UDP.

5 – Other matters

None

6 – Representations

No representations were received.

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

Application Number: 2018/92402

Decision Authorisation: Delegated Powers

Officer Recommendation: Grant Conditional 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 and BE2 of the Kirklees Unitary Development Plan, PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework

3. The development shall not be occupied until the 'W.C' and 'Shower' room windows in the south elevation of the building, as shown on plan ref. '016008_204' have been obscure glazed. The obscure glazing shall thereafter be retained.

Reason: So as not to detract from the amenities of nearby properties by reason of loss of privacy, and to ensure the privacy of users of the hereby approved facilities, to accord with Policy D2 of the Unitary Development Plan and Paragraph 127 of the National Planning Policy Framework.

4. The uses hereby approved shall not be open to customers outside the following hours;

Monday – Saturday: 08:00 – 21:00

Sunday and bank holidays: 08:00 – 20:00

No deliveries shall take place on Sundays or Bank Holidays.

Reason: In the interest of preventing undue noise and disturbance, to protect the residential amenity of the surrounding properties, so as to accord with Policies D2 and EP4 of the Kirklees Unitary Development Plan, PLP24 and PLP52 of the Kirklees Publication Draft Local Plan and Chapters 12 and 15 of the National Planning Policy Framework

5. Noise from amplified and non-amplified music, singing and speech arising from activities at the premises shall be controlled so as to be inaudible inside any noise-sensitive location in the vicinity of the premises.

Reason: In the interest of preventing undue noise and disturbance and to protect the residential amenity of the surrounding properties so as to accord with Policies D2 and EP4 of the Kirklees Unitary Development Plan, PLP24

and PLP52 of the Kirklees Publication Draft Local Plan and Chapters 12 and 15 of the National Planning Policy Framework

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	016008_100		24.07.2018
Existing Grouped Plans and Elevations	016008_200		24.07.2018
Proposed Grouped Plans and Elevations	016008_204		24.07.2018

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.

Discussions regarding conditions to control potential noise pollution took place and were agreed between officers and the applicant. Subject to these conditions, officers were able to support the proposal.

Report Dated: 24.09.2018