

**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: 2018/62/94007/E

Site Address: Unit 19, Moorland Industrial Estate, Law Street,
Cleckheaton, BD19 3QR

Description: Change of use from storage to dancing school for
children from 3yrs to 16yrs

Recommending Officer: Katie Wilson

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: 16-Apr-2019

Officer Report

Site Description

The application site is Unit 19, Moorland Industrial Estate, Law Street, Cleckheaton. It is a double height building that dates from the Edwardian era and is part of larger industrial building. It is currently unoccupied and described as warehouse / store / storage depot on the Kirklees property gazetteer. The walls are predominantly natural stone, with some red brickwork at the lower level.

There is a yard to the front enclosed by other parts of the larger industrial centre to the east and south, and access is from Law Street, a short cul-de-sac road leading to more industrial and business buildings.

Description of Proposal

Planning permission is sought for change of use from storage to dancing school for children from 3yrs to 16yrs.

The building site area is 2000 sq ft and there are 60 parking spaces available in the area. There would be 2 employees and no opening hours have been provided.

History of negotiations/amendments received

During the course of the application, details of a sequential test have been submitted

Relevant Planning History

None relevant to this application.

Representations

Final publicity date expired: 22nd March 2019. No representations received during the course of this application.

Parish/Town Council comments – Not applicable

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 Environmental Health: No objections subject to conditions relating to noise and hours of use.
- K C Highways Development Management: No objections.

- K C Lead Local Flood Authority: No objections.
- K C Policy: The sequential test has been passed and as the site is under 200 sqm, an impact assessment is not required. No objection subject to condition restricting the permission to what has been applied for.
- Environment Agency: The site is within flood zone 2 and classed as less vulnerable. It should be assessed in line with the flood risk standing advice, and no detailed comments are required.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is without notation/unallocated on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **PLP1** – Presumption in favour of sustainable development.
- **PLP2** – Place shaping
- **PLP13** – Town Centre uses.
- **PLP21**- Highway safety and access
- **PLP22** – Parking
- **PLP24** – Design
- **PLP27** – Flood risk
- **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 19th February 2019, 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 7** – Ensuring the vitality of town centres
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment

Assessment

Principle of design and town centre use assessment:

The site is without notation on the Kirklees Local Plan (as modified) and as such policy PLP24 is applicable. It seeks to promote good design by ensuring that proposals satisfy a set of criteria including high levels of sustainability through the re-use and adaptation of existing buildings, where practicable, and all the relevant matters are assessed later in this report.

The proposed development would involve change of use from warehouse / store to a dance school. It is considered that the existing use could be regarded as in Use Class B2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, and the proposed use is considered to fall within Class D2.

The NPPF states that Planning policies and decisions should support the role that town centres play at the heart of local communities. To this end, and amongst other things, local planning authorities should apply a sequential test to planning applications for main town centre uses which are not in an existing town centre or in accordance with an up to date plan. Main town centre uses should be located in town centres, then edge of centre locations, and only if suitable sites are not available (or expected to become available) should out of centre sites be considered.

The glossary to the NPPF lists leisure, entertainment, health and fitness centres, and more intensive sport and recreation uses as a main town centre use, and as stated above it is considered that the proposed new use would fall within these categories.

Policy PLP13 (as modified) of the Kirklees Local Plan reflects the NPPF and gives more site specific information.

In relation to this site, the location is just outside the boundary to Moorend local centre. The policy states that the role and function of such centres is to provide for top-up shopping and local services, particularly food and drink. The nearest centre with a role and function to be a focus for the local provision of leisure facilities, arts, culture and tourism facilities is Cleckheaton Town Centre, and the boundary to it is approximately 800m to the south. As such the proposal is in an out of town centre location and a sequential test is required.

The applicant has submitted a letter to support the proposal which states that the catchment area is Cleckheaton and surrounding areas. For the past three years they have liaised with estate agents who have suggested various properties. In Mirfield, this has included Moor Park, 25 Leeds Road, which was too big, Unit 257, Ashley Industrial estate, Huddersfield Road, which won't allow non industrial use, and privately owned properties, but they were too expensive. Roberttown area had nothing suitable, and in Cleckheaton they looked at 21/23 Albion Street, which was unsuitable as over shops,

Premier House, Bradford Road which was too small, Greenside which was too small, and The Music room in the town centre of Cleckheaton. Although the latter property did fit most of their requirements, the owner would not offer it on a rental basis. The property also needed some alterations so they would be unable to use it as a dance school in its present state, and together with other overhead costs it was also unsuitable from a financial point of view.

The current application site meets the needs of the Dance school.

The Council's policy officers have reviewed the information and in terms of the sequential test they are satisfied with the information provided and are unaware of any premises within or on the edge of Cleckheaton Town Centre that could be suitable for the proposal. As such, they consider that the sequential test is passed.

Whilst the application form states that the area of the building is 2000sqm, the applicant has confirmed that this was sqft and that it is under 200sqm. Given this additional information, an impact assessment is not required in this instance.

Policy colleagues find no objection to the proposal, subject to a condition that restricts the permission to what has been applied for ie. Dance school in order to ensure town centre vitality and viability.

As the description of the proposal is 'Change of use from storage to dancing school for children from 3yrs to 16 yrs' it is considered that this would be sufficient to tie the change of use to a dance school facility only, and so other potential D2 uses would require planning permission and would be assessed accordingly.

In summary, it is considered that taking the above into account, the principle of the proposed development is acceptable and would comply with the aims of the NPPF. An assessment of other considerations is set out below.

Impact upon amenity:

In terms of visual amenity, the proposal is for change of use only. In this instance there would be no alterations to the external appearance of the existing building, and as such there would be no further impact upon the visual amenity of the area.

In terms of residential amenity, the nearest neighbouring properties are at least 55m to the north with other industrial / commercial buildings in between. Policy PLP52 (as modified) of the Kirklees Local Plan together with parts of chapter 15 of the NPPF, amongst other things seek to protect sensitive development from noise generating facilities.

The Council's Environmental Health officers were consulted and have some concern that the proposed use of the site as a dance studio would play loud music which has potential to affect adjacent commercial premises.

However given the opening hours specified in their letter supporting the application of Monday to Friday 16:00 to 21:30 and Saturdays 10:00 to 16:00 would significantly mitigate such impacts upon neighbouring premises. Subject to applying a condition for similar hours, the proposal would be acceptable from a noise nuisance point of view and complies with policy PLP52 (as modified) of the Kirklees Local Plan as well as PLP24 (as modified) of the Kirklees Location Plan, in terms of minimising impact on residential amenity of neighbouring occupiers.

Impact upon highway safety:

The application site is accessed from Bradford Road (A638) via Law Street, and is part of a larger industrial centre of numerous units. There is some shared parking in the courtyard to the front of the premises, limited on street parking along Law Street, and a car park nearby, off Law Street.

The Council's Highways Development Management officers have been consulted and initially requested additional information about maximum attendance numbers and number of off street parking spaces for the use of the dance school.

The agent has stated that they will be running two classes within these hours with a maximum of 15 students in each class, so there would be a maximum of 30 pupils at any one time within the building. The 25 spaces to the front of the building and a further 36 spaces in the parking area nearby and across the road.

As such Highways DM have commented that it would appear that the dance school has adequate parking and is in a central location, well served by public transport, therefore they have no objections to the proposal and no specific conditions are deemed necessary. The proposal is considered to comply with the aims of policy PLP21 (as modified) of the KLP.

Other matters:

Flooding issues:

The site is approximately 50m from the River Spenn and is in flood zone 2. The Environment Agency were consulted and responded that the building is less vulnerable and therefore should be assessed in line with their standing advice.

The Council's Lead Local Flood Authority team have also been formally and informally consulted and raised no concerns.

The proposal is considered to comply with the aims of chapter 14 of the NPPF.

Representations:

No representations received during the course of this application.

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 - Approval

Decision Authorisation - Delegated Powers

Application Number: 2018/94007

Officer Recommendation: Approval

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 PLP1 (as modified), PLP2 (as modified), PLP13 (as modified), PLP21 (as modified), PLP22 (as modified), PLP24 (as modified), PLP27 (as modified) and PLP52 (as modified) of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The use of the premises as a dance school facility for children hereby permitted shall not be open to customers outside the hours of 15:30 to 22:00 Monday to Friday and 9:30 to 16:30 Saturdays.

Reason: In the interests of the amenity of nearby occupiers and to comply with policies PLP24 (as modified) and PLP52 (as modified) of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan			04.2.2019
Proposed site plan			04.2.2019
Plock plan			04.2.2019
Supplementary information: Planning statement, sequential test			13.2.2019
Supplementary information: additional highways information			5.3.2019
Supplementary information: Flood risk assessment			04.2.2019

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. During the course of the application, details of a sequential test were requested and subsequently have been submitted.

Report Dated:

15.4.2019
