

**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: 2019/62/90123/E

Site Address: 33A, Wellington Road, Dewsbury, WF13 1HL

Description: Change of use from retail (A1) to hot food takeaway (A5) and new shop front with security shutters and extract flue system (within a Conservation Area)

Recommending Officer: Josh Kwok

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: 21-Mar-2019

Officer Report

Site Description

This application property is no.33a Wellington Road, Dewsbury. It is a small mid-terrace property, which is currently unused. The property is single storey to the front where it abuts the pavement of Wellington Road and two storeys to the rear where it adjoins Westgate Terrace. No.33 Wellington Road is a vacant commercial unit, which was granted permission for change of use to a taxi booking office in 2012. There is a residential unit on the first floor of No.24 Westgate Terrace. The adjoining property to the south west (No.35) has a takeaway at ground floor and there is a public house to the north-east of the site.

Description of Proposal

The development proposal is for change of use from retail (A1) to hot food takeaway (A5) and new shop front with security shutter and extract flue system (within a Conservation Area). The details of the proposal are as follow:

- Half of the existing shopfront to be replaced by solid panels and door
- Half of the existing timber framed windows to be replaced by aluminium framed windows
- The proposed aluminium shopfront to be powdered coated in green
- The extract flue system to be 2.1m above the ridge

History of negotiations/amendments received

Some additional details were requested in regard to the hours of opening. These details were provided in an email dated 07-Feb-2019. Following consultation with the Council's Conservation & Design officer, some amendments were put forward to the applicant for consideration as well. The amended plan was received on 18-Mar-2019. No further amendments or details were requested thereafter.

Relevant Planning History

2013/91367 – Change of use of retail to hot food takeaway (within a Conservation Area) (33A, Wellington Road) – Approved

2012/90577 – Change of use from vacant office to taxi office with parking (within a Conservation Area) (33A, Wellington Road) – Approved

Representations

This application was advertised by site notices, neighbour letters and news adverts, which expired on 22-Feb-2019.

As a result of the above publicity, no representations were received from the tenants or owners of the neighbouring properties.

Consultation Responses

KC Conservation & Design – Some concerns regarding the original design of the proposed shopfront. The Conservation officer recommends that the symmetry of the existing shopfront shall be maintained and that the solid panels should be replaced by obscure glazed panels. The shutter box needs to be installed behind the fascia sign. Subject to the above amendments, the proposal can be accepted from a heritage perspective.

KC Environmental Health – no objections to the development proposal, given a similar application was approved at the site in the past. Two conditions were recommended: the first one relating to the hours of opening and second one to the details of the extract flue system.

KC Highways DM – no objections to the proposed development.

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 unallocated on the Policies Map of the Kirklees Local Plan. It is however situated within the designated Dewsbury Town Centre Conservation Areal.

Kirklees Local Plan (LP) (as modified):

- **PLP 01** – Presumption in favour of sustainable development
- **PLP 01** – Place shaping
- **PLP 13** – Town centre uses
- **PLP 16** – Food and drink uses and the evening economy
- **PLP 18** – Dewsbury town centre
- **PLP 21** – Highway safety and access
- **PLP 22** – Parking
- **PLP 24** – Design
- **PLP 30** – Biodiversity and geodiversity
- **PLP 35** – Historic environment
- **PLP 52** – 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 6** – Building a strong, competitive economy
- **Chapter 7** – Ensuring the vitality of town centres
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

Assessment

Principle of development

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is enshrined in policy PLP1 (as modified) of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise. Policy PLP24 (as modified) of the LP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development of the surrounding area as well as to preserve the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations are addressed in turn in the following sections in this report.

This development proposal is for the change of use from a vacant shop (A1) to a hot food takeaway (A5). The application site is situated within the Dewsbury Town Centre as well as the Dewsbury Town Centre Conservation Area on the Policies Map of the LP. Given the above, it shall be considered with reference to policies PLP13 (as modified), PLP16 (as modified) and PLP18 (as modified) of the KLP and chapters 6, 7 and 16 of the NPPF.

The proposed development, if permitted, would bring a vacant unit back into use and as such would be beneficial to the local economy as well as the Dewsbury Town Centre. The proposed use is a main town centre as defined in the NPPF and it is situated within the town centre on the Policies Map of the KLP. Therefore, the location is considered to be appropriate for the development as proposed. It would be consistent with the town centre first approach established in policy PLP13 (as modified) and chapter 7 of the NPPF. Policy PLP16 (as modified) of the LP states that proposals for food and drink use can be supported, provided they are located within a defined centre and not result in any harm to the character, function, vitality and viability of the centre.

As already highlighted in the relevant planning history in this report, the application site was granted permission for a similar proposal in 2012. This is a material consideration of this application. In this case, it is given considerable weight because there are no significant changes in local circumstances that may result in a different view regarding of the appropriateness of the development proposal. There is already a public house

and a takeaway in close vicinity of the application site. The proposed development is unlikely to be out of character of the surrounding development in this area. The impacts on residential amenity and highway safety are addressed in detail in the following sections. Subject to no adverse impact on residential amenity and highway safety, the proposal would be compliant with policy PLP16 (as modified) of the KLP.

For the reasons outline above, the principle of development could be acceptable. It would improve the character of the Dewsbury Town Centre by bringing a vacant unit back into use and at the same time benefit the local economy. The location is deemed to be suitable for the proposed development. There would be no harm to the vitality and viability of the existing centre. In all, the proposal would accord with the aims of policies PLP13 (as modified), PLP16 (as modified) and PLP18 (as modified) of the KLP and chapters 6, 7 and 16 of the NPPF.

Impact on visual amenity (including impact on Conservation Area)

The proposal would involve some minor alterations to the existing shopfront including the replacement of timber framed windows with aluminium framed windows and the installation of shutter boxes. The aluminium shopfront would be powdered coated in green. There would be an extract flue system installed on the roof of the application property as well. The proposed shopfront would be acceptable in visual amenity terms as it would preserve the symmetry the existing shopfront, consistent with the advice of the Council's Conservation & Design officer. The replacement of solid panels with obscure glazed panel would also reduce the impact of the proposed shopfront on the visual amenity and on the Conservation Area as a whole.

The shutter boxes as proposed would be internally mounted. This is identified as an acceptable option in the Dewsbury Design Guide, although the most appropriate option is to install the shutter box behind the window display. Furthermore, it would have a similar appearance as the existing hot food takeaway in the immediate vicinity. Concerning the extract flue system, it would not cause significant changes to the appearance of the application property or the character of the surrounding area. The impact of the proposal on the Dewsbury Town Centre Conservation Area would be negligible because it would be small in scale and in keeping with the existing character of the Conservation Area. That being said, a condition shall be attached to the decision notice to require the shopfront to be finished in olive green. This is to ensure a satisfactory appearance of the proposed shopfront and to avoid harm to the Conservation Area. Subject to the recommended condition, the proposal would accord with policies PLP24 (as modified) and PLP35 (as modified) of the KLP and chapters 12 and 16 of the NPPF.

Impact on residential amenity

The closest residential properties are the flats at 24 Westgate Terrace. KC Environmental Health has been consulted on the application and no objections have been raised. Two conditions has been recommended

however in order to manage the odour and noise associated with the proposed development.

The agent confirmed in the email received on 07-Feb-2019 that the premises would operate from 11am to 1am on Monday to Sunday. Given that Dewsbury has a very limited night-time economy, it is unlikely that the premises would attract significant numbers of customers during the late evening period / early hours in the morning and so the potential for noise at unsociable hours would be restricted. The customer entrance is to the front of the property (off Wellington Road) which would nevertheless provide a degree of separation between customers and the nearest residential properties, or any future development on vacant land to the rear of the premises.

Taking all the above factors into account, the proposal would not give rise to any unacceptable impact on the amenity of the occupants of the neighbouring residential properties and hence would not conflict with the aims of policy PLP16 (as modified), PLP24 (as modified) and PLP52 (as modified) of the KLP, as well as chapter 15 of the NPPF.

Impact on highway safety

This is a sustainable location in very close proximity to a public car park and KC Highways DM is satisfied that there would not be any material harm to highway safety. The application would comply with policies PLP21 (as modified) and PLP22 (as modified) of the KLP.

Other matters

Ecology

The site is located within a bat alert layer. Following a site visit, the building appeared to be well sealed and there was no evidence of bat roosts or bat roost potential was found. A footnote shall be added to the decision notice to provide the applicant with advice should bats or evidence of bats be found during construction. This would accord with the aims of policy PLP30 (as modified) of the KLP and chapter 15 of the NPPF.

Procedural matter

The development proposal has been amended to address the concern of the Council's Conservation & Design officer. These amendments include the replacement of solid panels with obscure glazed panels as well as the reposition of doors to maintain the symmetrical relationship of the existing shop front. The amended drawing was not re-advertised as the amendments were considered minor in nature. There were no comments received as a result of the initial publicity either. On the basis of the above, it is not deemed necessary to re-advertise the amended proposal in this particular case.

There are no other matters considered relevant to the determination of this application.

Representations

No representations received on 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 - Approve

Decision Authorisation - Delegated Powers

Application Number: 2019/90123

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 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 preserve and enhance the significance and character of the Dewsbury Town Centre Conservation Area in accordance with Policies PLP16 (as modified), PLP24 (as modified), PLP35 (as modified) and PLP52 (as modified) of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

3. The shopfront hereby approved shall have an olive green colour finish [RAL6603] on first installation and thereafter retained.

Reason: In the interest of visual amenity and to avoid harm to the significance and character of the Dewsbury Town Centre Conservation Area in accordance with Policy PLP24 (as modified) and PLP35 (as modified) of the Kirklees Local Plan as well as Chapters 12 and 16 of the National Planning Policy Framework.

4. The use hereby permitted shall not begin until details of the installation and/or erection of any extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions have been submitted to and approved in writing by the Local Planning Authority and the works specified in the approved scheme have been installed. Such works shall thereafter be retained, operated at all times when the takeaway is in use and maintained in accordance with the manufacturer's instructions.

Reason: In the interests of protecting the residential amenity of any nearby occupants from undue noise and odour associated with the approved use and in order to preserve the character and appearance of the Dewsbury Town Centre Conservation Area, in accordance with Policies PLP24 (as modified), PLP35 (as modified) and PLP52 (as modified) of the Kirklees Local Plan as well as Chapters 12, 15 and 16 of the National Planning Policy Framework.

5. The hours of opening of the hot food takeaway hereby approved shall be between 11:00am and 01:00am Monday to Sunday.

Reason: In the interest of the residential amenity of nearby occupants from undue noise and disturbance at unsociable hours in accordance with Policies

PLP24 (as modified) and PLP52 (as modified) of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: Due to its location, a bat roost may 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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Extraction system proposal			18-Jan-2019
Design and access statement			18-Jan-2019
Proposed elevation	WRD02		18-Mar-2019
Existing elevation and location plan	WRD01		18-Jan-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. The proposal has been amended slightly to reduce the impact on the historic character and appearance of the Dewsbury Town Centre Conservation Area. Subject to the amendments as shown on the proposed elevations received on 18-Mar-2019, there is considered to no material harm to the significance and character of the Conservation Area. Hence, no further amendments or details were requested thereafter.

Report Dated: 19-Mar-2019