

**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: 2019/62/90531/W

Site Address: 1 , Reed Street, Marsh, Huddersfield, HD3 4AA

Description: Change of use and erection of single storey front extension to existing shop/store to form hot food takeaway (A5)

Recommending Officer: William Simcock

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: 09-May-2019

Officer Report

Site Description

The site comprises a two-storey building, stone with a blue slate roof, used as a fish and chip shop, forming part of a terraced row on a corner site. The main elevation faces west towards Reed Street, which is otherwise mainly residential. The secondary elevation faces Westbourne Road, which is commercial.

It has a small single-storey glazed extension near the northern end with a blank wall above, and with a small open forecourt in front; further along the same elevation the appearance of the property is domestic in appearance with a small enclosed yard.

Description of Proposal

The proposal is for the expansion of the existing takeaway into the neighbouring unit, which according the application form is now storage for the existing takeaway, and the erection of a single-storey extension. The extension would project 1.5m out, and would occupy most of the existing Reed Street elevation, being set in by approximately 500mm at the northern end and just over 1m at the southern boundary (with 3 Reed St). It would have a flat roof and would be constructed in the same way as the existing extension, having a stone dwarf wall up to 1m with glazing above, the southern end elevation being a solid stone wall.

History of negotiations/amendments received

16-Apr, 07-May-2019 – Amended plans received in response to case officer's concerns about scale, design and materials.

Relevant Planning History

None.

Representations

Final publicity date expires: 01-Apr-2019

No representations made.

Consultation Responses

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

- Highways Development Management – No objections
- Environmental Health – No objections subject to conditions
- Public Health – recommend refusal.

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 within Marsh Local Centre on the Kirklees Local Plan.

As it is a change of use and the access arrangements appear to be similar to the existing, it is considered that the development does not raise access or other Equality Act considerations.

Kirklees Local Plan (LP):

- PLP13 – Town Centre uses
- PLP16 – Food and drink uses and the evening economy
- PLP21 – Highway safety and access
- PLP22 – Parking
- 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 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 2 – Achieving sustainable development
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on character, function, vitality and viability of the local centre
- 2) Impact on visual amenity (including any heritage considerations)
- 3) Impact on residential amenity and environmental quality
- 4) Impact on highway safety
- 5) Impact on public health
- 6) Other matters – e.g. trees/ecology (e.g. bats)
- 7) Representations
- 8) Conclusion

1 – Principle of development: The site is deemed to fall within Marsh District Centre within the Local Plan.

Policy PLP 13 states, in brief, that main town centre uses shall be located within defined centres, which should provide a mix of uses whilst retaining a strong retail core. Policy PLP 16 of the draft Local Plan states that food and drink uses should be supported, subject to ensuring that the concentration of food and drink and licensed entertainment uses should not be in any one part of a centre, where this would result in harm to the character, function, vitality and viability of the centre, and subject to other criteria such as noise, fumes (also covered by PLP52 and NPPF 15) and potential anti-social behaviour.

As the proposal involves built development it will be assessed having regard to the aims of good design set out in PLP24.

PLP47 states that healthy, safe and active lifestyles will be enabled by “working with partners to manage the location of hot food takeaways particularly in areas of poor health”. The other PDLP policies listed above predominantly cover the same areas of guidance as the aforementioned UDP policies.

This aim is also supported by Planning Practice Guidance – health and wellbeing. This contains the following specific advice:

1. Planning can influence the built environment to improve health and reduce obesity and excess weight in local communities.
2. Local planning authorities can consider bringing forward, where supported by an evidence base, local plan policies and supplementary planning documents, which limit the proliferation of certain use classes in identified areas, where planning permission is required.
3. Local planning authorities and planning applicants could have particular regard to the following issues:
 - a. proximity to locations where children and young people congregate such as schools, community centres and playgrounds
 - b. evidence indicating high levels of obesity, deprivation and general poor health in specific locations

- c. over-concentration and clustering of certain use classes within a specified area

The general aim of creating and supporting healthy communities is also promoted by Chapters 2 and 8 of the NPPF.

Finally, under Section 17 of the Crime and Disorder Act, the Council acting as Local Planning Authority has an obligation to have due regard to the likely impact upon, and to do all it reasonably can to prevent, crime and disorder. Section 8 of the NPPF states that the planning system should aim to achieve healthy, inclusive and safe places. Therefore the likely impact upon crime and disorder is a material consideration.

2 – Impact on character, function, vitality and viability of the local centre: The proposal represents an extension to an established business rather than a new one and it is therefore considered that it does not carry any significant implications for the mix of uses within the district centre or for its viability or vitality. In short it would support the aims of PLP13 and NPPF 2 and 7, subject to an assessment of visual amenity, residential amenity, and other material considerations, to be assessed in detail below.

3 – Impact on visual amenity: The right-hand half of the property (as viewed from the street) is of domestic scale and proportions and forms part of a terraced row with a consistent design. It is considered that the proposed extension, as shown on the latest amended plans, would respect the appearance of the building and its residential setting. Subject to the stonework matching that used on the existing building, it would conserve visual amenity and accord with the aims of Policy PLP24(a).

4 – Impact on residential amenity: The proposal would involve a re-siting of the existing flue, presently at the front corner of the building, to the southern end. This would bring it closer to existing residential properties, and since the proposal would appear to represent an intensification in the use, it is considered reasonable to apply the conditions requested by Environmental Health on details of odour control and a noise report with attenuation measures. This has been sensitively placed utilising the existing chimney flue which will allow odours to dissipate into the air freely.

Given the location adjacent to a dwelling house, hours of use should be conditioned to be within the limits recommended by the Environmental Health Officer (this would allow an earlier opening time in the morning if a future occupier wished it, and an additional 30 minutes in the evenings).

It is considered that the extension, as shown on the latest amended plans, would not have an overbearing impact or cause significant loss of light to the adjacent property – it should however be conditioned as a precaution, in the

interests of preventing any future loss of privacy, that the southern wall remains a blank wall with no windows.

As conditioned, officers are satisfied that the development would not give rise to any adverse impacts on nearby residential properties or the wider environment and would accord with the aims of PLP24(b), 16 and 52.

5 – Impact on highway safety: The application site contains no dedicated off-street parking. It is unlikely that the modest expansion of the premises would increase trip generation substantially, but it might result in longer stays if the extension were to be used as a dining area for sit-in customers. The bays on Reed Street are reserved for permit holders or for short stay (15 minutes) users, but there are public car parks nearby and parking bays nearby on Westbourne Road. It is considered that any additional parking demand generated would be accommodated safely, thereby complying with the aims of PLP21-22.

6 – Public health issues: According to IMD (Index of Multiple Deprivation), the site is within the 10-20% most deprived areas in Kirklees. The percentage of adults and children who are overweight or obese is below the Kirklees average but still considered to be high enough to be a cause for concern.

Since the proposal relates to the extension of an existing take-away rather than a new one, it would be difficult to justify a refusal on the basis that it might lead to higher levels of obesity, excess weight and resultant poor health within the area. The development is considered to be compatible with the aims of PLP47, the social objective of the planning system as set out in paragraph 8(b) of Chapter 2, and 91(c) of Chapter 8 within the NPPF.

7 – Other matters:

Crime and disorder:

Hot food takeaways may sometimes be the focus for crime and anti-social behaviour, but this is more likely to occur where there is a high concentration of such uses intermingled with establishments serving alcohol, especially larger town centres. In this location, and as it is an expansion to an existing business, this is not considered to be a serious concern as long as the approved opening hours are adhered to.

8 – Representations: No representations have been made.

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: 2019/90531

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 Policy PLP24 (as modified) of the Local Plan.

3. The stone used in any external walling shall in all respects match those used in the construction of the existing building.

Reason: In the interests of visual amenity and to accord with the aims of PLP24(a) (as modified) of the Local Plan.

4. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no new door or window openings shall be constructed in the external southern side wall of the extension at any time.

Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policy PLP24(b) of the Local Plan.

5. Prior to the approved use commencing, a report specifying the measures to be taken to protect the occupants of nearby noise sensitive premises, in particular 3 Reed Street Marsh HD3 4AA, from noise from the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The report shall include

- (i). an assessment of noise emissions from the proposed development
- (ii). details of background and predicted noise levels at the boundary of 3 Reed Street, Marsh HD3 4AA
- (iii). a written scheme of how the occupants of 3 Reed Street, Marsh HD3 4AA will be protected from noise from the proposed development, with noise attenuation measures as appropriate.

The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To ensure that the proposed development does not give rise to loss of amenity to nearby residential properties arising from noise disturbance, and to accord with the aims of Policies PLP16 (as modified) and PLP52 of the Local Plan.

6. Prior to the approved use commencing, details of the installation and/or erection of the proposed extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions, shall have been submitted 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 / restaurant is in use and maintained in accordance with the manufacturer's instructions.

Reason: To ensure that the proposed development does not give rise to loss of amenity to nearby residential properties arising from odours, and to accord with the aims of Policies PLP16 (as modified) and PLP52 of the Local Plan.

7. No activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 0800 to 2200 Monday to Saturdays. No activities shall take place on Sundays or Bank Holidays.

Reason: To ensure that the proposed development does not give rise to loss of amenity to nearby residential properties arising from noise or disturbance at unsocial hours, and to accord with the aims of Policies PLP16 (as modified) and PLP52 of the Local Plan.

Note: Noise survey

A competent person should undertake any noise survey and developers may wish to contact the Association of Noise Consultants <http://www.association-of-noiseconsultants.co.uk/Pages/Links.htm> (01736 852958) or the Institute of Acoustics <http://www.ioa.org.uk> (01727 848195) for a list of members.

Note: Hours of construction

To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours, Mondays to Fridays

08.00 and 13.00hours, Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Note: food safety and hygiene

It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an

appropriate layout. The Food Safety team can be contacted on 01484 221000.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			20-Feb-2019
Location plan			20-Feb-2019
Existing and proposed floor plans	1811-01	C	07-May-2019
Existing and proposed elevations	1811-02	D	07-May-2019
Existing and proposed site plan	1811-03	C	07-May-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 case officer undertook negotiations with the applicant to secure amended plans in order to ensure that the scale and design of the proposed extension respected the character of its surroundings and conserved the appearance of the townscape.

Report Dated: 09-May-2019