

**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: 2019/62/91422/E

Site Address: 2, Nelson Street, Birstall, Batley, WF17 9EP

Description: Alterations and erection of rear dormer windows to convert existing building (A2) to 7 apartments (within a Conservation Area)

Recommending Officer: Anthony Monaghan

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: 20-Aug-2019

Officer Report

Site Description

The application relates to no. 2 Nelson Street, Birstall, Batley; a large semi-detached building of traditional construction with stone slate roof. The property was formerly used as a solicitor's office.

There is a small parking area to the front with an access to the side leading to a larger parking area to the rear.

The site is within the Birstall Conservation Area and within Birstall District Centre on the Kirklees Local Plan.

Description of Proposal

The proposal is for the change of use of the building from a solicitor's office (A2) to 7 flats (C3). The development also includes work to the building both internally and externally.

The main external alterations would be the formation of new windows and two rear dormers.

Parking would be provided to the rear of the building.

A noise report and Conservation Area assessment has been submitted with the application.

History of negotiations/amendments received

26/07/19. Amended plans submitted to address issues of overlooking.

8/07/19. Information received regarding the proposed roofing and window materials.

Planning History

2019/90002. Pre-application enquiry for change of use from offices (A2) to 7 studio flats (C3).

2018/92105 – Prior approval from change of use from office (B1) to five dwellinghouses REFUSED (no.2 Nelson Street)

2002/91951 – Change of use from offices to beauty salon APPROVED (no. 4 Nelson Street)

Representations.

Final publicity date Expires: 12/06/19

No letters of representation received.

Consultation Responses

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

KC Conservation and Design.

21/06/19. Concerns raised regarding the use of Brazilian stone slate. The two rear dormers should be equally sized.

27/06/19. Ok with the use of Grey’s Artstone but should be Yorkstone.

KC Highways DM - No comments received.

KC Environmental Health - No objection subject to condition regarding implementation of noise report recommendations and installation of electric vehicle charge points.

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 the Birstall Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1** – Presumption in favour of sustainable development.
- **LP 11**- Housing mix and affordable housing.
- **LP 13** – Town centre uses.
- **LP 21**- Highway Safety and Access.
- **LP 22** – Parking
- **LP24** – Design
- **LP 35** - Historic Environment.
- **LP 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, and 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 5 –Delivering a sufficient supply of homes.

Chapter 12 – Achieving well designed places.

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.

Chapter 16 – Conserving and enhancing the historic environment.

Other Relevant Guidance

Birstall Conservation Area Appraisal.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity (including any heritage considerations)
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology (e.g. bats)
- 5) Representations
- 6) Conclusion

1 – Principle of development

The site is within a District Centre as defined on the KLP; according to policy LP 13 district centres should provide for a range of shopping for everyday needs and serving specialist markets. They should also be the focus for basic financial services, food and drink, entertainment, leisure and tourist facilities, and health services.

The site is also within Birstall Conservation Area. Chapter 16 of the NPPF is relevant which suggests that where development affects the significance of a designated heritage asset, the impact of the proposals should be assessed and great weight should be given to the assets conservation.

Within the Local Plan Policy LP 35 of the KLP reflects the above national policy and suggests that consideration should be given to the need to ensure that proposals within conservation areas conserve those elements which have been identified as contributing to their significance in the relevant Conservation Area Appraisals.

Within the Birstall Conservation Area Appraisal there is no specific mention of buildings on Nelson Street, however there is a mention of the types of buildings and the prevalent use of natural stone and stone slate in early 19th Century buildings. It is important that the character of these buildings is retained.

Policy LP 24 of the KLP suggests that proposals should promote good design by ensuring (among others) the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.

Policy in Chapter 12 of the NPPF, Achieving well designed places, suggests that local planning authorities should ensure that the issue of Design and the way a development will function are fully considered during the assessment of an application.

Within the district centres there is no specific policy which relates to the change of use of buildings to residential. Policy LP 15 relates more specifically to Town Centres as defined on the Local Plan, however the policy justification section subtext refers to residential use in town centres being appropriate providing the mix of retail and other town centre uses is retained.

With regard to the loss of the business premises Policy LP 8 of the KLP is the Council's adopted policy of ensuring these uses are retained, however this would only apply in the defined Priority Employment Areas as shown on the Local Plan. This particular site is outside of any Priority Employment Area and in such cases the Council will not resist the change of use of such employment premises where they have not been designated.

2 –Impact on visual amenity and the Conservation Area.

The submitted amended plans show that the front elevation of the building would remain largely unaltered; the two roof lights, as originally proposed have now been deleted at the request of the Conservation and Design officer.

One of the main alterations to the front elevation of the building would be the replacement of the roof covering. The applicant had originally proposed a dark Brazilian slate, however the existing roof covering is a natural, York stone slate and this would have altered the character of the building. The Conservation and Design officer has objected to this alteration.

A site meeting was held with the applicant and it was suggested that the existing York stone slate should be retained and repaired where necessary, however the builder has stated that the slate is in a very poor state. The cost of replacing with natural stone slate in this location would be prohibitive and as such it was suggested that using a good quality artificial stone slate may be an alternative. The applicant has decided to use Grey's Artstone, natural weathered diminishing reproduction stone slate; this is considered a good match for the existing and other stone slate in the area.

With regard to the windows the original layout to the front would be retained, to the rear are some alterations to the fenestration. The existing frames are to be replaced together with any new frames required and would be of anthracite grey colour uPVC, these would have flush fitting openers. Whilst timber sash windows would be preferred this proposal would match other buildings in the vicinity where replacement windows have been used.

The Agent has submitted details of the proposed frame design and this is given as "option 1" on these submitted details. A condition should be included to this effect.

The amended plans show the two dormers to the rear would now be of equal size and design and positioned so that they are equidistant from the sides of the building. This is considered appropriate and, due to the position at the rear of the building would not be visible from a public vantage point.

The other alterations include the blocking up of certain windows and the formation of some new openings in order to facilitate the internal layout, again this is considered acceptable.

It is considered that none of the alterations would significantly harm the character and appearance of the building or of the Birstall Conservation Area. Any slight harm from the proposals is outweighed by the benefits of bringing this empty building back into use in this prominent location.

Subject to appropriate conditions the proposals are considered to be in accordance with Policies LP 13, LP 24 and LP 35 of the KLP and Chapters 12 and 16 of the NPPF.

3 – Impact on residential amenity:

The proposals for the conversion of the building to 7 flats could have an impact on the residential amenity of the occupiers of both nearby flats and dwellings, and on the future occupiers of the development.

With regard to the front elevation, there would be habitable room windows at both ground and first floor which would be a distance of approximately 19m from the buildings opposite on Nelson Street.

Whilst it is unclear whether any of the first floor rooms of these premises are habitable, this distance is considered reasonable where a conversion to residential takes place, particularly where this involves traditional buildings in a town centre. In addition this road is a busy bus route and any occupiers would already be subject to a certain lack of privacy in this respect.

To the rear there would be no direct relationship with any other neighbouring properties from the proposed habitable windows at ground and first floor levels.

The dormers would serve habitable rooms at a distance of at least 15 metres to the boundary. There are large outbuildings on the boundaries which add existing built form between the sites, thus providing an additional restriction to any potential overlooking.

Given this distance and the fact that the neighbouring dwellings themselves are set back significantly, there would be no overlooking to habitable rooms. In terms of the areas of amenity space, the area that would have a direct relationship with the application site dormer windows is the area associated with no. 9A High Street. However, this is to the front of the house and visible from the driveway; as such there would not be any close overlooking.

With regard to no. 18 Nelson Street, this is located to the rear of the site and is accessed through the car park serving no. 2 Nelson Street. It and has a large garden area to the front however there would not be a direct relationship and as such would not cause a harmful degree of overlooking.

Within the east side elevation of no. 2 Nelson Street, the original proposals were for a kitchen/dining window at ground floor and a bedroom window at first floor level. These would have had a direct relationship with a bedroom window in the side elevation of no. 6 Nelson Street at a distance of around 8.5m.

Concerns were raised by the officer during the site visit and amended plans submitted showing these windows infilled and new windows inserted in the rear elevation of the building where they would cause no harm.

With respect to the western elevation of the application property, there are 2 existing windows within this elevation, one at ground floor level and one at first floor level, which are to be retained as part of the development. The ground floor window would provide a secondary opening to the kitchen living area of Flat 2, whilst the first floor window would serve a shower room to Flat 6. Given the nature of the openings and the rooms that they would serve, in addition to the fact that they would face the blank elevation of No.3 High Street, this arrangement would not result in a loss of privacy to any adjoining occupiers.

With regard to the future occupiers of the flats, of consideration is the amount of floor space of each flat, whilst not adopted The Nationally Described Space Standards give a guide to acceptable floor areas for residential development.

Measurements of the flats show that there is a shortfall in some flats in terms of floor space, however this is not considered significant and would not result in a significant harm to the amenity of the occupiers.

In terms of outdoor amenity space, there is a small area to the rear in the car park indicated on the plans. This would not result in high quality space, however as the site is located within the town centre, a requirement for outdoor amenity space is not a priority.

The Environmental Health officer has been consulted and has requested that prior to the occupation of the flats the noise mitigation measures as proposed in the submitted noise report are implemented. This is considered important and should be conditioned.

Subject to appropriate condition, it is considered that there would be no adverse impact from the proposals with regard to residential amenity and as such in accordance with policies LP 24 and LP 52 of the KLP and national policy in Chapter 12 of the NPPF; Achieving well designed places.

4 – Impact on highway safety:

The submitted proposals include a parking layout plan and waste storage area within the parking area to the rear as suggested by the pre-application enquiry advice. This indicates that there would be 6 parking spaces with sufficient area to turn within the site. As such it is considered that, in terms of highway safety and parking provision the proposals are acceptable.

Subject to appropriate condition the proposals are in accordance with policies LP 21, LP 22 and LP 24 of the KLP and chapter 14 of the NPPF.

5 – Other matters:

A pre-application enquiry was submitted and a detailed response provided for the applicant. At the time the UDP was still the relevant adopted plan, however this has now been replaced with the Local Plan to which the pre-application enquiry also referred, albeit in the draft policy form. This submitted application is roughly in line with the advice given and as such it is important that any recommendation reflects this pre-application advice.

Air Quality

Chapter 9 of the NPPF states the government's intentions of the decision-making process to maximise sustainable transport solutions which includes supporting the transition to low emission vehicles. This is also set out within the West Yorkshire Low Emissions Strategy.

KC Environmental Health has requested either 1 no charging point is installed for each residential unit that has a dedicated parking place, or 1 no. charge point for every 10 non- dedicated parking places. This shall be conditioned.

Subject to this condition, the application is considered to comply with the aims of Policy LP 51 of the KLP and Chapter 9 of the NPPF as well as the Low Emissions Strategy.

6 – Representations:

None 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. For the reasons set out above it is considered that the development would constitute sustainable development and is therefore recommended for approval.

Decision Authorisation - Delegated Powers

Application Number: 2019/91422

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 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 and to accord with policies LP 13, LP 21, LP 22, LP 24, LP 35 and LP 52 of the Kirklees Local Plan and the aims of Chapters 9, 12, 15 and 16 of the National Planning Policy Framework.

3. Any new facing stone used on the development shall match that used on the existing building in terms of type, course depth and colour.

Reason: In the interests of visual amenity, the character and appearance of the host building and the Birstall Conservation Area and to accord with Policies LP 13, LP 24 and LP 35 of the Kirklees Local Plan and the aims of Chapters 12 and 16 of the National Planning Policy Framework.

4. The replacement roofing material shall be Grey's Artstone, natural weathered diminishing reproduction stone slate and shall be laid in diminishing courses.

Reason: In the interests of visual amenity, the character and appearance of the host building and the Birstall Conservation Area and to accord with Policies LP 13, LP 24 and LP 35 of the Kirklees Local Plan and the aims of Chapters 12 and 16 of the National Planning Policy Framework.

5. Any new and replacement windows shall be anthracite grey uPVC with flush fitting openers and shall be as shown in “option 1” of the submitted details received 8th July 2019.

Reason: In the interests of visual amenity, the character and appearance of the host building and the Birstall Conservation Area and to accord with Policies LP 13, LP 24 and LP 35 of the Kirklees Local Plan and the aims of Chapters 12 and 16 of the National Planning Policy Framework.

6. Before any of the flats are first occupied, the parking and bin storage area as shown on plan ref: 2018-00457-P03B, shall be provided. The parking places shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency’s ‘Guidance on the permeable surfacing of front gardens (parking areas)’ published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the parking and turning of vehicles.

Reason: In the interests of amenity and traffic safety and to ensure adequate space within the site for vehicle movements and parking and in accordance with Policies LP 21 and LP 22 of the Kirklees Local Plan and Government policy in the National Planning Policy Framework.

7. Before the development is first brought into use all works which form part of the sound attenuation scheme as specified in the Noise Report dated 2 May 2019 ref: NIA/8490/19/8392/v1 produced by Environmental Noise Solutions Ltd:-

- a) shall be completed; and
- a) written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels.

All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

The development shall not be 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 amenity of the occupiers of the dwelling and to accord with the requirements of policies LP 15 and LP 52 of the Kirklees Local Plan.

8. Before the electrical system is installed a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:-

- A Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) for each residential unit that has a dedicated parking space
- One Standard Electric Vehicle Charging Point for every 10 unallocated residential parking spaces

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: In the interest of improving the local air quality and promoting ultra-low emission vehicles and to accord with policy LP 51 of the Kirklees Local Plan and national policy in chapter 9 of the National Planning Policy Framework, Promoting Sustainable Transport.

NOTE: 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 13.00 hours, Saturdays

With no working on 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 Environmental Services are able to control noise on construction sites by serving a Notice which may include specifying the hours during which the works may be carried out.

Note: A 13A EV charge point does not comply with current government guidance (published 03 November 2016), which is the “Minimum technical specification - Electric Vehicle Home charge Scheme (EVHS)” from the Office for Low Emission Vehicles (OLEV). This document gives minimum specifications for various charging speeds. A minimum of 16A continuous current demand as listed in the OLEV document is required.

Plans and specification schedule:-

Plan Type	Reference	Version	Date Received
Location plan and	2018-00457-P01D	3	24/05/19

Plan Type	Reference	Version	Date Received
existing plans and elevations			
Site plan	2018-00457-P03B	2	24/05/19
Proposed plans and elevations	2018-00457-P02H	5	26/07/19
Proposed window options.		1	8/07/19
Noise report	NIA/8490/19/8392/v1	1	24/05/19
Heritage Assessment	AKB	1	24/05/19
Planning Statement	AKB	1	3/06/19

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 and otherwise actively engaged with the applicant in dealing with the application. Discussions took place with the agent and applicant regarding a number of issues and the proposed alterations to the building. The report and recommendation is based on the amended plans and additional submitted information.

Report Dated 16/08/19