

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015 - Schedule 2, Part 3, Changes of Use**

**DELEGATED DECISION FOR DISCHARGE OF CONDITION -
NOTIFICATION OF A CHANGE OF USE UNDER THE ABOVE
PROVISIONS**

Reference no.	2019/CL/91849/E
Site Address	first floor, 84, Commercial Street, Batley, WF17 5DS
Description	Prior approval from change of use of first floor offices to one residential unit
Recommending Officer	Katie Wilson

DECISION – DETAILS APPROVED

**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.**

Kevin Walton

AUTHORISED OFFICER

Date: 07-Aug-2019

Application: 2019/91849

Site: First floor, 84, Commercial Street, Batley, WF17 5DS

Proposal: Prior approval for change of use of first floor offices to one residential unit

Site Description

The application site is at the south western corner of Alfreds Way Shopping Centre. It is a 2-storey building currently bank / building society at ground floor level and office space above. There is a large shop front at ground level with mansard style roof above surfaced in grey/blue tiles, within which are two windows to the first floor office.

In front of the building is a wide pavement / pedestrianised area forming part of the larger parade of shops, and to the side is a relatively narrow passageway sloping down and away from Commercial Street.

On the opposite side of the road is Batley Town Hall, Market Square and other civic buildings which are within a conservation area.

Description of Proposal

The proposal seeks to convert the first floor office space into one residential unit. I would have 2 bedrooms, 1 bathroom, an open plan lounge / kitchen, hallway and boiler/store. Access via internal staircase.

The application is submitted as a prior approval under Class O of the Town & Country Planning (General Permitted Development) Order 2015.

Relevant Planning History

Application site

03/90669 – Advertisement consent for suspended and projecting illuminated signs. Granted consent.

04/90742 – Advertisement consent for non-illuminated hoarding and poster frame.
Granted consent.

95/93571 - Advertisement consent for illuminated fascia sign. Granted consent.

95/93330 – Installation of new shop front and automatic telling machine.
Granted conditional full permission.

96/92104 – External alterations and installation of ATM. Granted conditional full permission.

96/92105 – Advertisement consent for illuminated signs. Granted consent.

96/92772 – certificate of lawfulness for unrestricted A2 use at ground floor and B1 use at first floor. Certificate of lawfulness granted.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=96/92772>

19/90783 – certificate of lawfulness for proposed alterations to convert office to dwelling. Pending determinations

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2F90783>

[History of negotiations/amendments received](#)

[No amendments were sought or received during the course of this application.](#)

[Procedural Matters and Policy Context](#)

[The above described proposal constitutes development as defined](#) within Section 55 of the Town and Country Planning Act 1990. The General Permitted Development Order 2015, Schedule 2 Part 3 Class O, and as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.

The legislation permits the following development:

O. Development consisting of a change of use of a building and ***any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.***

The proposal is considered to fall within this Class, and is thus authorised subject to the restrictions, conditions and prior notification procedure outlined in Paragraphs O.1 (as amended) and O.2 (as amended).

Paragraph O.1 (as amended) stipulates that development is not permitted in the following circumstances:

(a) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order— (i) on 29th May 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;	Pass: Having reviewed the planning history and council records, officers are satisfied that the last use was B1(a).
(b) the site is, or forms part of, a safety hazard area;	Pass: The site is not in a safety hazard area.
(c) the site is, or forms part of, a military explosives storage area;	Pass: The site is not part of a military explosives storage area.
(d) the building is a listed building or is within the curtilage of a listed building; or	Pass: The building is not listed or within the curtilage of a listed building.
(e) the site is, or contains, a scheduled monument.	Pass: This site is not or contain a scheduled monument.

In light of the above the proposal accords with the requirements of paragraph O.1 (as amended).

O.2 (as amended) stipulates the need for the developer to submit an application for Prior approval to the Local Planning Authority. Prior approval is required for the following considerations:

- a) transport and highway impacts of the development;
- a) contamination risks on the site; and
- b) flooding risks on the site,
- c) impacts of noise from commercial premises on the intended occupiers of the development

Paragraph W outlines the procedure for the submission, and assessment of, applications under Part 3 which require Prior Approval. Under the procedures outlined in Paragraph W, the council is required to consult relevant bodies and advertise the application by site notice.

To assess the above, relevant policies in the development plan and national planning policies will be considered.

Planning Policy

Kirklees Local Plan (KLP)

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 in Batley town centre and a primary shopping area with a primary shop frontage to the southern elevation

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP15** – Residential use in town centres
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land

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 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 7** – Ensuring the vitality of town centres
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

Representations

Site notices expired: 15th July 2019.

No representations received.

Consultation responses

Responses given to 2019/90783 for certificate of lawfulness for the same proposed development. These comments are applicable to this application currently being considered.

K.C Highways: No objection subject to condition relating to details of waste collection points.

K C Environmental Health: Concerns about potential noise nuisance to the future occupiers and that the proposal could hinder the compatibility of the neighbouring premises. Recommend a pre-commencement condition for noise report

KC Conservation and design: no comment

Assessment

As per O.2 (as amended) the following matters are considered in the assessment below –

- 1) Transport and highways impacts of the development
- 2) Contamination risks on the site
- 3) Flooding risks on the site
- 4) Impacts of noise from commercial premises on the intended occupiers of the development
- 5) Representations
- 6) Conclusion

1) Transport and highways impacts of the development

The property is an existing bank / building society at ground floor level with office area above, at the south western corner of Alfreds Way shopping centre in Batley town centre. This is considered to be a sustainable location with no off street parking associated with the existing building.

The proposal has been assessed by Highways development management officers who commented that no off street parking would be considered necessary and that overall the proposal is acceptable, and suggest a condition relating to the provision of details of storage/access for wastes.

If the suggested condition is applied, officers are satisfied that the proposal would not harm the safe and efficient operation of the Highways, in accordance with policy LP21 of the KLP.

2) Contamination risks on the site

The development seeks to change the use of a building at first floor level only. Furthermore the site is within a Town Centre and Environmental Health have raised no concerns relating to contamination. Officers are satisfied that there is no contamination risk.

3) Flooding risks on the site

The site is located within flood zone 1 which has the lowest risk of flooding, and the application site is at first floor level. The proposed residential use would be appropriate within flood zone 1 and so there is no concern with respect to flooding.

4) Impacts of noise from commercial premises on the intended occupiers of the development

The site is within Batley Town centre, and a primary shopping area, where it is at the corner of shopping precinct, with community resource centre to one side and town Hall on the opposite side of the road.

The application has been assessed by an environmental health officer who raised concerns about the potential for noise nuisance to the future occupier of this development, and that allowing a residential development in this location could hinder the compatibility of the neighbouring premises. He refers to a development at the rear for a leisure facility/bars/restaurants which could conflict with the proposal.

He goes on to suggest a pre-commencement condition for the noise report, in the interests of the amenity of the occupiers of these properties.

Given that there are building in a mixture of uses nearby it is agreed that a noise report is required in this instance to ensure that the residential amenities of the future occupants is not harmed.

This would be compliant with policies LP15 and LP52 of the KLP.

5) Representations

None received during the course of this application.

6) Conclusion

Subject to condition the proposal complies with Class O of Part 3 of the GPDO2015 (England) (as amended).

Recommendation: Grant Prior Notification

Decision Authorisation - Delegated Powers

Application Number: 2019/91849

Officer Recommendation: Grant prior approval

Conditions and Reasons, in addition to those contained within W of Part 3.

1. Before development commences a report specifying the measures to be taken to protect the development from noise from general use of the town centre location including any night time economy activities and any plant situated nearby shall be submitted to and approved in writing by the Local Planning Authority.

The report shall:

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in bedrooms (night-time) and other habitable rooms of the development
- (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

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 these properties and to accord with the requirements of policy LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

2. Prior to the hereby approved residential unit being brought into use, details of storage and access for the collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interest of amenity and highway safety, in accordance with policy LP21 of the Kirklees Local Plan.

NOTE: This permission relates only to the prior notification for change of use from office (B1) to residential (C3) of first floor of the application site.

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:

Monday to Friday: 0730 – 1830

Saturday: 0800 – 1300

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	Dwg no. A(PL)-01		10.6.2019
Existing first floor plan	Dwg no. A(PL)-02		10.6.2019
Proposed first floor plan	Dwg no. A(PL)-03		10.6.2019

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. No amendments have been sought or received during the course of this application.

Report Dated: 6.8.2019