

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No: 2019/70/92127/W

Site Address: 103, New Street, Huddersfield, HD1 2TW

Description: Variation of condition 2 (plans) on previous application 2017/93886 for erection of extensions and alterations to convert existing building to student accommodation

Recommending Officer: Adam Walker

DECISION – Variation of Condition- Approve

I hereby authorise the approval of this application to vary a condition for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

David Wordsworth

AUTHORISED OFFICER

Date: 11-Sep-2019

Officer Report

Site Description

The application relates to part of the former Co-operative building in Huddersfield town centre. The building which is the subject of this application formed an extension to the original Co-operative building and was built in approximately 1936. The original building, built in 1893, is attached located behind the application site. The design of the extension is a 1930's modernist architectural approach which contrasts with the late Victorian Baronial style of the original building.

The application building is four stories in height and has a rectangular form.

The ground floor of the adjacent Co-operative building is utilised by Wilkos retail.

The site is bounded to the west by New Street and Alfred Street to the east. There are a range of other retail units along New Street.

Access to the building and parking for vehicles is taken via an existing public car park off Alfred Street to the rear.

Description of Proposal

Planning permission for the change of use of the building and a three storey vertical extension was approved by the Strategic Planning Committee in April 2018. The proposals were to create student accommodation comprising of 134 bedrooms over 7 floors. The bedrooms form a mix of accommodation types including cluster units with shared kitchen and lounge areas and self-contained one bedroom and two bedroom units.

The approved extension increases the height of the building to 25.5m.

The current application seeks to make some changes to the internal configuration of the building. The overall number of beds within the building remains the same at 134. The main changes are summarised below:

- Increase in the amount of accommodation at lower ground floor (basement) level. 10 beds increased to 17 beds.
- Additional bed on the ground floor
- One less bed provided on the first, second, third, fourth and fifth floors
- No accommodation on the mezzanine floor
- The accommodation remains in the same form i.e. a mixture of cluster accommodation, studios and self-contained apartments but the proportion of each type has been amended on each floor
- General alterations to the layout of the building to accommodate the above changes.

No additional external alterations are proposed under this s73 application. The application does however include details of works to some existing light wells that were not provided with the original application. The light wells are currently concealed and would be opened up and new grilles fitted.

Some roof lights are also proposed to serve the basement; these would be located within the floor of the building behind the approved false showfront to the New Street elevation.

History of negotiations/amendments received

None

Relevant Planning History

2017/93886 - Erection of extensions and alterations to convert existing building to student accommodation – Approved by Strategic Planning Committee 5/4/18

Certificate of Immunity from Listing – granted in approximately November 2017.

2006/92616 – Demolition of building - withdrawn

2002/93282 – Installation of new shop front, rear escape and roof plant – planning permission granted.

2002/94005 – Erection of illuminated signs – consent granted

2000/93149 – Change of use of retail store to restaurant – planning permission granted.

2000/93306 – Change of use to public house – planning permission granted.

Representations

Application advertised by site notice, press advert and neighbour letters.
Representations: None received

Newsome Ward Councillors and the Chair of the Strategic Planning Committee were notified of the application. No comments were received in response.

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 Environmental Health – No comments received

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 Huddersfield Town Centre Conservation Area in the Kirklees Local Plan.

Kirklees Local Plan (LP):

LP1 Presumption in favour of sustainable development
LP3 Location of new development
LP7 Efficient and effective use of land and buildings
LP8 Safeguarding employment land and premises
LP10 Supporting the rural economy
LP13 Town centre uses
LP14 Shopping frontages
LP17 Huddersfield Town Centre
LP 20 Sustainable travel
LP21 Highway safety and access
LP22 Parking
LP23 Core walking and cycling network
LP24 Design
LP27 Flood Risk
LP28 Drainage
LP30 Bio diversity and geodiversity
LP32 Landscape
LP33 Trees
LP35 Historic Environment
LP51 Protection and improvement of air quality
LP52 Protection and improvement of environmental quality
LP 53 Contaminated and unstable land
LP63 New open space

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 4 – Decision-making

Chapter 5 – Delivering a sufficient supply of homes
Chapter 6 – Building a strong, competitive economy
Chapter 7 – Ensuring the vitality of town centres
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 11 – Making effective use of land
Chapter 12 – Achieving well-designed places
Chapter 16 Conserving and enhancing the historic environment

Assessment

General principle

The application seeks to make some minor material changes to the original application under s73 of the Town and Country Planning Act 1990. The changes relate to the reconfiguration of the internal layout of the building. Supporting information states that the changes are necessary following a review of the internals of the building. It is noted that accommodation has been removed from a particular part of the building which adjoins the Wilkinson Store.

Under the s73 application process it is only the proposed changes to the application that fall to be considered along with the conditions that were imposed on the original permission.

Heritage considerations

The building is not listed and has a Certificate of Immunity from Listing. There are listed buildings within the wider vicinity of the site.

The building lies within the Huddersfield Town Centre Conservation Area.

In accordance with the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 special regard must be paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Chapter 16 of the NPPF provides guidance on conserving and enhancing the historic environment and Policy LP35 of the Local Plan relates to the protection of heritage assets.

The proposed amendments relate to the internal layout only and do not involve any external alterations to the building. As such there are not considered to be any greater heritage impacts over and above those considered within the original application.

The application is accompanied by an additional plan that shows a section detail of some light wells and proposed roof lights to the basement.

The agent has confirmed that the light wells are existing features which are currently concealed. These light wells are to be opened up and new grilles added. The light wells are around half a metre in width and the nature of these features is such that they would not have any material impact on the appearance of the building or the Conservation Area.

Some roof lights are also proposed within the structure of the building to serve the basement accommodation. These are located behind the approved false showfront to the New Street elevation and so would not be visible.

Residential amenity

With regard to amenity, the main change is the increase in accommodation within the basement of the building. This means a greater proportion of students occupying the part of the building that is least preferable in terms of the standard of living conditions that can be provided, particularly with regard to outlook and natural light.

The additional accommodation is located towards the New Street side of the building which is where the existing light wells are to be opened up and supplemented with new roof lights within the structure of the building. These works will help to provide some natural light to the proposed studios in this part of the basement. A condition relating to mechanical ventilation was imposed on the original permission and remains relevant to the current scheme.

It is clear from the financial viability exercise conducted as part of the original application that the scheme is finely balanced from a viability perspective. Giving more of the basement over to accommodation in order to compensate for the loss of bedrooms elsewhere in the building is therefore going to be important to help deliver the scheme.

Ten bed spaces have already been approved within the basement and on balance it is considered that the additional accommodation within the basement would not result in an unacceptable standard of living conditions for future occupiers. In reaching this conclusion significant weight has been given to the wider benefits of bringing this building back into use.

The size of each of the units is considered to be adequate.

Highway matters

The total number of bedrooms is the same as the original development and the bike store and bin store remain as approved. Servicing arrangements are unaffected. It is therefore considered that the amendments do not give rise to any materially different highway impacts.

Other matters

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

In this case none of the conditions have been discharged and so all conditions are to be repeated. The time limit condition remains as per the original permission.

The proposed changes to the permission do not require any additional conditions to be imposed.

Conclusion

The proposed changes to the internal configuration of the building would not result in any unacceptable planning impacts and are therefore considered to be acceptable.

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: 19/92127

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun before 15th June 2021.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
1. 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, in the interests of highway safety and the appearance of Huddersfield Town Centre Conservation Area and to accord with Policies LP21, LP24 and LP35 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.
2. The cladding materials hereby approved shall comprise anodised aluminium – Anolok colour ref 545. The development shall be carried out in accordance with the approved materials and subject to the requirements of condition no.4.
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 in the interests of visual amenity and the appearance of Huddersfield Town Centre Conservation Area and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and guidance contained in the National Planning Policy Framework.
3. Prior to the installation of any cladding hereby approved, detailed drawing sections of the proposed cladding, details of fixing and details of the size of each cladding panel shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
Reason: To safeguard the significance of the Huddersfield Town Centre Conservation Area in accordance with Policies LP24 and LP35 of the Kirklees Local Plan and guidance contained in the National Planning Policy Framework.
4. Prior to any works to repair/renovate the exterior of the existing building (including installation of windows/doors/cladding); a method statement detailing the required works to repair/renovate the building together with full details of proposed materials, method of fixing and a timetable/phasing arrangement to carry out repairs and renovation shall be submitted to and

approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.

Reason: To safeguard the significance of the Huddersfield Town Centre Conservation Area in accordance with Policies LP24 and LP35 of the Kirklees Local Plan and guidance contained in the National Planning Policy Framework.

5. Details of refuse and recycling storage to serve the development, together with details of access arrangements to serve the storage facilities, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any of the development. Thereafter refuse and recycling storage facilities and access arrangements thereto shall be provided in accordance with the approved details prior to occupation and shall be retained as such for the duration of the permitted use.

Reason: In the interest of highway safety and good design in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and guidance contained in the National Planning Policy Framework.

6. Prior to the occupation of the building, details of any external ventilation/refrigeration/air conditioning units shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed before the use hereby permitted commences and thereafter shall be permanently retained.

Reason: In the interests of good design in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

7. No extension to the building shall be commenced until a method statement for creation of a swift colony nest site has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:

- a) location of proposed nest features shown on appropriate scale maps and plans;
- a) detailed design(s) and/or make and model of features to be installed;
- b) means of encouraging colony establishment, including playback of 'Swift Calls';
- c) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- d) persons responsible for implementing the works; and
- e) initial aftercare and long-term maintenance.

The works shall be carried out strictly in accordance with the approved details and installed features shall be retained in that manner thereafter.

Reason: To encourage the establishment of a swift nesting colony to provide a biodiversity net gain in accordance with Kirklees Local Plan policy LP 30 and guidance contained within the National Planning Policy Framework.

8. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include details of the following:
- (i) hours for site preparation, delivery of materials and construction;
 - (ii) the parking of vehicles of site operatives and visitors;
 - (iii) loading and unloading of plant and materials;
 - (iv) storage of plant and materials used in constructing the development;
 - (v) the erection and maintenance of security hoarding;
 - (vi) wheel washing facilities;
 - (vii) measures to control the emission of dust and dirt during construction;
 - (viii) a scheme for managing and the recycling/disposing of waste resulting from construction works.
 - (ix) location of any portable cabin structures

The approved CMS shall be adhered to throughout the construction period.

Reason: In the interests of the amenity of the locality and highway safety, in accordance with Policies BE1, BE2 and T10 of the Kirklees Unitary Development Plan, PLP21 and PLP24 of the Kirklees Publication Draft Local Plan and in accordance with chapter 11 of the National Planning Policy Framework.

Reason for pre-commencement: Construction works may have an impact on the amenity of the locality and highway and pedestrian safety therefore, a scheme is required in order to mitigate impacts prior to any works taking place on site.

9. The development hereby permitted shall incorporate measures to minimise the risk of crime and meet the specific security needs of the application site and the development. The scheme shall include, but not be limited to, details of access control and bicycle security. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the use commencing and implemented in accordance with the approved details prior to the occupation of the use and retained.

Reason: In order to ensure crime prevention measures are incorporated into the scheme in accordance with Policy LP24 of the Kirklees Local Plan.

11. The accommodation hereby permitted shall be occupied by students only, defined as
persons whose main residence is elsewhere and who are enrolled on recognised full-time courses at one of the higher educational establishments in the borough of Kirklees only and for no other purpose (including any other purpose in Class C3 and C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that order with or without modification).

Reason: So as to ensure that the development is used solely for student accommodation and not open-market housing whereby affordable housing provision would be sought and different amenity and parking standards would apply. This is to accord with LP24 of the Kirklees Local Plan and guidance contained within the National Planning Policy Framework.

12. Before the development is first brought into use all works which form part of the sound attenuation scheme as specified in the Noise Report (ref - CL/10086/2774/01) dated 2 November 2017 produced by Philip Dunbavin Acoustics Ltd:-
- i. shall be completed; and
 - ii. 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 to and approved in writing by 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.

Reason: In the interests of the amenity of future occupiers in accordance with Policies LP15 and LP24 of the Kirklees Local Plan and guidance contained within the National Planning Policy Framework.

12. Before development commences, a ventilation scheme to show how habitable rooms, as specified in Table 9 of the Noise report by Phillip Dunbavin Acoustics Ltd (ref - CL/10086/2774/01), shall be ventilated without the need to open windows, shall be submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to occupation of the aforementioned plots. These works shall be retained and maintained in accordance with the manufacturer's instructions thereafter.

Reason: In the interests of the amenity of future occupiers in accordance with Policies LP15, LP24 and LP51 of the Kirklees Local Plan and guidance contained within the National Planning Policy Framework.

14. Notwithstanding the submitted plans and information, details of the following materials to be used in the proposed extension shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works to construct the extension hereby approved:

- Details and samples of all stonework, render and brickwork;
- Details of window frames including header, cills and reveals;
- Details of all other materials

The development shall be completed in accordance with the approved details prior to the occupation of the building.

Reason: To safeguard the significance of the Huddersfield Town Centre Conservation Area in accordance with Policies LP24 and LP35 of the Kirklees Local Plan and guidance contained in the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed Site Plan	453 P-00	Rev B	13/11/2017
Proposed New Street Elevation	453 P-09	Rev D	06/03/2018
Proposed Queensgate Elevation	453 08	Rev F	06/03/2018
Proposed Lower Ground Floor Plan	453 101	Rev S	24/06/2019
Proposed Ground Floor Plan	453 102	Rev R	24/06/2019
Proposed Mezzanine Floor Plan Between GF and FF	453 103	Rev F	24/06/2019
Proposed First Floor Plan	453 104	Rev Q	24/06/2019
Proposed Second Floor Plan	453 105	Rev Q	24/06/2019
Proposed Third Floor Plan	453 106	Rev P	24/06/2019
Proposed Typical Upper Level Plan 4th to 5th Floor	453 107	Rev P	24/06/2019
Proposed Sixth Floor Plan	453 108	Rev P	24/06/2019
Proposed Roof Plan	453 P-07	Rev B	13/11/2017
Section A-A Basement detail showing light well	453 225	-	24/06/2019
Proposed Rear of Queensgate	453 P-12	Rev C	13/11/2017
Foul & Surface Water Drainage Strategy	Report No. 425/58r2b June 2016	-	13/11/2017
Air Quality Assessment	AQ104557R1	-	23/11/2017
Environmental Noise Assessment	CL/10086/2774/01	-	13/11/2017
Transport Statement	1380	-	13/11/2017
Travel Plan	1380	-	13/11/2017
Accommodation comparison table	Renaissance Works Huddersfield	-	24/06/2019

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 application was considered to be acceptable in its submitted form and therefore no negotiations were undertaken.

Report Dated:

11/9/19
