

**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: 2019/62/94015/E

Site Address: Homeworld, 40, Northgate, Dewsbury, WF13 1DX

Description: Change of use from retail (A1) to 2 flats (C3) (within a Conservation Area)

Recommending Officer: Olivia Roberts

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: 17-Apr-2020

Officer Report

Site Description

The application site comprises a middle terrace property within the Dewsbury Town Centre. The building is three storeys to the front elevation and two storey to the rear, with rear access below. The building currently serves a retail unit, Homeworld, at ground floor level with ancillary accommodation above. The building fronts onto Northgate whilst access to the rear is achieved from Foundry Street.

The site is located within the Dewsbury Town Centre Conservation Area with the surrounding area comprising buildings which are predominantly commercial in use. Whilst the adjoining properties are of a similar appearance to the application site, the wider area comprises properties which vary in terms of their style and design, although contribute to the character of the Conservation Area.

Description of Proposal

The application seeks to change the use of the first and second floor level of the building from retail (A1) to two one bedroom flats (C3).

An internal bin store would be provided within the basement level of the building with direct access onto Foundry Street for collection.

No external changes are proposed as part of the proposal.

History of negotiations/amendments received

The following amendments were requested during the course of the application:

- Reduction in the amount of living accommodation to improve the impact on the residential amenity of future occupiers
- Provision of an internal bin store to prevent the storage of bins on the highway

Amended plans were received from the agent showing the provision of two one bedroom flats within the first and second floors of the building. The amended plans are set out above. Amended plans were also provided to show an internal bin store at basement level. However, the Council's Conservation & Design officer raised concern to the openings proposed in the

rear shop front of the building. Following this, further amended plans were received from the agent showing a bin store that did not require additional openings to be provided within the rear shop front of the building.

Due to the nature of the amended plans which reduced the amount of living accommodation to be provided within the building, as well as showing an internal bin store at basement level, it was not considered necessary to advertise the amended plans in this instance.

Relevant Planning History

2019/93374 – Prior approval for change of use from retail (A1) to two dwellings (C3). Withdrawn.

Representations

The application has been advertised by site notice and neighbour letter. Due to the location of the building within a Conservation Area, the application was also advertised in the press. Final publicity expired 6th February 2020.

As a result of the above publicity, no representations have been received.

Parish/Town Council comments: not applicable.

Consultation Responses

K.C. Highways Development Management – No objections to the proposal based on the sustainable location of the development within the Dewsbury Town Centre.

K.C. Environmental Health – Recommend conditions relating to noise and odour at site in the interest of the residential amenity of future occupiers.

K.C. Lead Local Flood Authority – No objections to the proposal.

K.C. Policy – Informal discussion – No concerns to the proposal based on the amended plans. Would like to see the consideration of an internal bin store.

K.C. Crime Prevention Officer – No objection to the proposal.
Recommendations have been suggested.

K.C. Conservation & Design – Informal discussion, raised initial concern to the revised plans which introduced a bin store within the basement level of the building due to the requirement of additional openings to be provided within

the rear shop front of the premises. Raised no objection to the provision of a fully internal store.

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 Kirklees Local Plan.

Kirklees Local Plan (LP):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 15 – Residential use in town centres
- LP 18 – Dewsbury Town Centre
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 27 – Flood risk
- LP 30 – Biodiversity and geodiversity
- LP 35 – Historic environment
- LP 51 – Protection and improvement of local air quality
- 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, 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 5 – Delivering a sufficient supply of homes
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on the Conservation Area and visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

1 – Principle of development:

The application site is located in the Dewsbury Town Centre and within a primary shopping area. The building currently comprises a retail unit at ground floor level with ancillary accommodation above. The change of use of the building to residential accommodation relates to the first and second floors of the buildings with the existing retail unit being retained at ground floor level.

Chapter 5 of the National Planning Policy Framework establishes a general principle in favour of residential uses, whilst Chapter 7 at para.85 (f) advises that planning policies should recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.

Policy LP15 of the Kirklees Local Plan sets out how proposals for residential development within town centres will be supported subject to the consideration of other matters including the protection of primary shopping areas, the protection of the character of the centre and local street scene and the protection of the amenity of existing residents and future occupants.

Policy LP18 of the KLP relates specifically to Dewsbury Town Centre and those forms of development which will be acceptable within the Town Centre. Whilst retail uses should be the main focus, these should be supported by other main town centre uses, including space for town centre living.

Overall, the principle of development is considered acceptable. Consideration should be given to the local impact of the development, which is set out below.

2 – Impact on the Conservation Area and visual amenity:

The impact on visual amenity is considered acceptable. No external changes are proposed to the building as part of this proposal, with only changes to the internal layout required to facilitate the change of use. The provision of a bin store to serve the two flats would be fully internal and would not require external changes to be made to the rear shop front of the building. The bins would be taken onto Foundry Street by the existing rear access for collection. For this reason, it is not considered that the proposal would have a greater impact on the character of either the street scene or the wider area in this instance.

It is also noted that the application site is located within the Dewsbury Town Centre Conservation Area and within close proximity to a number of Grade II listed buildings which are located to the south west of Northgate. Given the above, where no external changes are proposed to the building, it is considered that there would be a neutral impact on the significance of the Conservation Area and the setting of the listed buildings as a result of the proposed change of use.

Taking the above into consideration, the proposed development is considered to comply with Policies LP15, LP18, LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan sets out that consideration needs to be given to the impact of the proposal on neighbouring properties. Policy LP15 also sets out the need for consideration to be given to the protection of the amenity of existing and future occupiers of proposed residential uses in accordance with amenity and design policies within the plan.

In this instance, the built form of the building would not change as a result of the proposal and therefore there would be no overbearing or overshadowing impact as a result of the change of use. Whilst the openings at first and second floor would serve habitable rooms, it is considered that sufficient distance would be retained to prevent overlooking into the buildings which are located to front and rear of the site.

Accordingly, officers are satisfied that the proposal would not harm the amenity of occupiers of the neighbouring properties.

Impact on the future occupiers of the building

Consideration must be given to the amenity of future occupiers. The application has been considered against the Government's technical guidance for space standards within a residential dwelling. The two flats are considered to provide sufficient living accommodation with the first floor flat measuring 40sqm and the flat which would extend across both the first and second floors measuring 58sqm. Officers are satisfied that all habitable rooms would be served by windows that provide a suitable outlook and natural light.

The properties within the surrounding area are predominantly of a commercial use. The Environmental Health officer has reviewed the submitted plans and information and has noted that the building is located in a town centre with a fairly busy highway to the front, commercial waste bins to the rear and attached takeaway and restaurant premises which benefit from extract systems. The use of the neighbouring premises was confirmed during a site visit which was carried out during the course of the application. On the basis of the above, the flats are likely to be subject to significant noise, particularly late at night and early in the morning. As such, a condition has been recommended in order to assess the existing noise climate and detail any noise mitigation measures in the interest of the amenity of future occupiers. It has also been noted that due to the location of several food outlets within close proximity to the proposed flats, there is the potential for cooking odours to significantly impact the amenity of future occupiers. A condition has therefore been suggested in order for it to be demonstrated how future occupiers will be protected from such odours.

The proposed development, subject to the imposition of the recommended conditions, is considered to comply with Policies LP15, LP18, LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4 – Impact on highway safety:

The proposal would introduce two flats above an existing retail unit within the Dewsbury Town Centre which would result in an intensification in the use of the building from the existing situation. Whilst no off-street parking would be provided as part of the proposal, the Highways Development Management (HDM) officer has reviewed the submitted plans and has raised no concerns due to the sustainable location of the building within the Dewsbury Town Centre.

As stated above, an internal bin store has been shown on the most recently submitted amended plan and this would prevent bins from being left on the footway except for collection day.

The proposed development is considered to comply with policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Crime Prevention

The crime prevention officer has reviewed the submitted plans. Whilst no objections have been made the proposal, recommendations of crime preventative measures which could be incorporated into the development have been made.

Flood Risk

Sections of the site have been identified as being located within Flood Zones 2 and 3 under the SFRA flood maps. The Lead Local Flood Authority have been consulted during the course of the application and have raised no objections to the proposal. Due to the fact that the flats would be located within the first and second floors of an existing building, with no additional building or external development required, it is not considered that the proposal would increase the risk of flooding either on or off the site. On this basis, and due to the scale of the development, it was not considered necessary for a site specific Flood Risk Assessment to be provided in this instance. The Lead Local Flood Authority consider the access and egress from the site to be sufficient for the development in this instance. The proposal is therefore considered to comply with the aims of Policy LP27 of the Kirklees Local Plan and the aims of Chapter 14 of the National Planning Policy Framework.

Biodiversity

The site is located within a bat alert layer as identified on the Council's mapping system. Following a site visit, the building appeared to well sealed and there was no evidence of bat roosts or bat roost potential. It is also noted that the application relates solely to the change of use of the building with only internal alterations proposed. As such, the proposal is considered to accord with Policy LP30 of the Kirklees Local Plan and the aims of Chapter 15 of the National Planning Policy Framework.

Carbon Budget

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The proposal seeks to introduce living accommodation within the first and second floors of an existing retail unit. Chapter 14 of the NPPF sets out how the planning system should support the transition to a low carbon future by encouraging the reuse of existing resources, including the conversion of existing buildings. The proposal as such could be argued to produce less carbon than through the erection of new dwellings. The building is located within the Dewsbury Town Centre and does not benefit from private parking which would promote the use of sustainable modes of transport. Given the scale of the development, this is considered sufficient to demonstrate that the proposal would not cause harm to the climate change agenda.

6 – Representations:

No representations have been 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. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation: **Approve**

Decision Authorisation - Delegated Powers

Application Number: 2019/94015

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 on completion, and to accord with Policies LP1, LP2, LP22, LP24 and LP35 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. Before development work commences, a report specifying the measures to be taken to protect the development from noise from road traffic, waste collection activities, extract and customer noise from nearby food outlets, noise from ground floor retail activities and attached food outlets shall be submitted to and approved in writing by the Local Planning Authority.

The report shall:-

- a) Determine the existing noise climate
- a) Predict the noise climate in bedrooms (night-time) and other habitable rooms of the development
- b) 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: To protect the residential amenity of future residents in accordance with Policies LP15, LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. Before development work commences, an Odour Impact Assessment Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall:-

- Detail all of the potential sources of odour in the vicinity of the application premises

- Determine the potential of adverse impact on the proposed development from these potential sources of odour
- Detail the necessary odour mitigation measures that are required to ensure the future occupiers of the development are not adversely affected by sources of odour in the vicinity

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: To protect the residential amenity of future residents in accordance with Policies LP15, LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: A competent person should undertake any noise survey and developers may wish to contact the Association of Noise Consultants <http://www.association-of-noise-consultants.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: 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 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 the works may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	100		12/12/2019
Existing Elevations	101		12/12/2019
Existing Floor Plans	102		12/12/2019
Proposed Elevations	111		12/12/2019
Proposed Floor Plans	112	D	23/03/2020

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.

Amended plans were sought and received from the agent during the course of the application to address officers' concerns regarding the amenity of future occupiers of the flats as well as the storage and collection of waste.

Report Dated:

14/04/2020
