

**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: 2020/62/91132/E

Site Address: 471, Halifax Road, Hightown, Liversedge, WF15 8HU

Description: Conversion of storage area into first floor self-contained apartment

Recommending Officer: Ian Lunn

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: 16-Jul-2021

Officer Report

Site Description

471 Halifax Road (formerly 471 to 473 Halifax Road) is a substantial two storey building constructed of a combination of white/red rendered stonework and natural stone, for the external walls, under a flat profile concrete tile pitched roof. It is located approximately 30 metres north west of the junction of Teasel Close and Halifax Road in an area of part residential/part commercial development. The premises lie within the built-up area of Hightown but on land that is otherwise unallocated in the Council's adopted Development Plan. The building is currently used as a restaurant (Parmars Indian Restaurant) at ground floor level with a self-contained one bedroomed flat, office and storage area above.

Description of Proposal

Planning permission is sought to convert the first floor office and storage area into a second self-contained one bedroomed flat.

History of negotiations/amendments received

None

Relevant Planning History

86/04953 – Conversion of cottage to form extension to public house and extension to existing wc's – Approved 30/01/87

Representations

To accord with the General Development Procedure Order neighbour letters were sent out to surrounding properties. These were posted on 15th June 2020 giving 35 days to comment (14 days more than the normal 21 days in this instance due to current Covid restrictions). The publicity period has now expired and no representations have since been received.

The agent has submitted a Planning Statement in support of their proposal in which they state:-

- a) that it will meet all relevant local and national planning policy,
- a) that sound proofing and a fire resistant ceiling will be provided between the restaurant and new flat in order to safeguard future occupiers of the latter from excessive noise,

- b) that the premises currently benefit from 'off street' parking facilities to the rear.

Consultation Responses

KC Highways DM:- No objections. 'Off-street' parking is currently available to the rear of the premises and an existing means of vehicular access is available to that area.

KC Environmental Health:- No objections but would like conditions imposing requiring the implementation of suitable mitigation measures to protect future occupiers of the flat from excessive restaurant and external noise; limiting the hours of construction of the development, and requiring the provision of electric vehicle charging points (if deemed appropriate).

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 in the Kirklees Local Plan.

Kirklees Local Plan (2019):

LP1 Presumption in favour of sustainable development
LP2 Place Shaping
LP3 Location of New Development
LP7 Efficient and effective use of land and buildings
LP20 Sustainable Travel
LP21 Highways and Access
LP22 Parking
LP24 Design
LP52 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.

Section 2	Achieving Sustainable Development
Section 5	Delivering a Sufficient Supply of Homes
Section 8	Promoting Healthy and Safe Communities
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well Designed Places
Section 14	Meeting the Challenge of Climate Change, Flooding and Coastal Change
Section 15	Conserving and Enhancing the Natural Environment

Other:

Housebuilders Design Guide SPD (2021)
Highway Design Guide SPD (2019)

Assessment

The main considerations in this case are as follows:

- 1) Principle
- 2) Visual Amenity
- 3) Neighbour Amenity
- 4) Highway Safety
- 5) Other Issues

Principle

Paragraph 11 of the National Planning Policy Framework (NPPF) advises that plans and decisions should apply a presumption in favour of sustainable development. It adds within the same paragraph that where the policies in the Development Plan, deemed most relevant to the consideration of the proposal in question, are out-of-date the default position is that planning permission should be granted unless:-

- a) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
- a) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In the case of applications for residential development such as this, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land. The Council is currently able to demonstrate a supply of 5.88 years so its Development Plan policies relating to housing supply are not

considered to be 'out of date' and can therefore be afforded appropriate weight.

Policies LP1 and LP20 of the Local Plan and Sections 2 and 9 of the NPPF both place emphasis upon securing sustainable forms of development. It is considered that the development proposed by this application could reasonably be viewed as meeting this aim in so far as it seeks the conversion of part of an existing building that is located within the main built-up area of Hightown and that directly adjoins a bus route.

Additionally the proposal would assist in meeting the housing needs of the Council albeit in a very small way. This would be 'in line' with the aims of Section 5 of the NPPF, which states that small developments such as this can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly, and with Policies LP3 and LP11 of the adopted Local Plan which collectively in part support development schemes that provide housing of a type and mix that meets identified need in the District.

In view of the above, and as this building is located within a partly residential area, the proposal is considered to be acceptable in pure planning policy terms meeting the requirements of Policies LP1, LP3, LP11 and LP20 of the Local Plan and Sections 2, 5 and 9 of the NPPF in this regard.

Visual Amenity

It is not proposed to make any significant alterations to the external appearance of this building in the course of creating the new flat. Consequently, it is contended that the proposal will have no material impact either upon the character of the existing premises or upon the appearance of the surrounding area. In view of this the development is considered to be acceptable in visual amenity terms reasonably satisfying the requirements of Policy LP24 of the Local Plan, Sections 12 and 15 of the National Planning Policy Framework and the provisions of the Housebuilders Design Guide SPD (2021) in this regard.

Neighbour Amenity

a) Light

The level of light currently received by the surrounding properties will not be adversely affected by this proposal. The conversion works do not involve any enlargement of the building.

b) Overlooking

It is not envisaged that the proposal will lead to unacceptable overlooking of neighbouring properties either. All windows serving the new flat will either face the bowling green to the west of the building or Halifax Road itself.

c) Overdevelopment

The proposal will not lead to any additional land forming part of the premises from being built upon. As such it is contended that it will not lead to the overdevelopment of the site.

d) Noise

The future occupiers of the flat could potentially be disturbed by noise generated both by the ground floor restaurant and by other external noise sources (including the adjoining bowling green clubhouse and traffic using Halifax Road). The agent has sought to address this issue, at least in part, through sound proofing and by providing a fire resistant ceiling between the restaurant and the new flat.

These proposals have been considered by the Council's Environmental Health Service but they would like to see further details of them, along with details of the measures proposed to protect future residents from other significant external noise sources, in order to be certain that they will be effective. They have therefore recommended that these are required to be submitted for consideration by way of a condition.

On the balance of probability it is considered likely that future occupiers of a one bedroomed flat in this location could reasonably be safeguarded from restaurant/external noise through the implementation of suitable sound insulation measures. A condition to this end is therefore considered reasonable and accordingly is recommended.

KC Environmental Health have also requested a condition controlling the hours of construction of the development. However, given its very modest scale this is not considered to be necessary in this instance, and can be included as an informative note.

In view of the above it is considered that, subject to the implementation of suitable sound insulation measures, the proposal is unlikely to have any significant impact upon the amenities of future occupiers of the flat or upon the amenities currently enjoyed by the surrounding properties. It is therefore contended that it will reasonably meet the requirements of Policy LP24 and

LP52 of the adopted Local Plan, Section 15 of the National Planning Policy Framework and the provisions of the Housebuilders Design Guide SPD (2021) in this regard.

Highway Safety

There is an unsurfaced parking area to the rear of these premises that currently serves both the restaurant and the one bedroomed flat. Whilst accepting that the Council does not now have any formally adopted parking standards this does not currently appear to be large enough to satisfactorily accommodate the number of vehicles that both are likely to attract whilst also allowing for suitable associated 'on-site' turning. On the face of it therefore the creation of a further flat here, which would require further parking (one additional space having regard to the previous standards) could potentially lead to highway safety concerns. However, it is contended that the demand for additional parking generated by this proposal would reasonably be offset by an associated reduction in the floor area of the restaurant (by approximately 64 square metres). On balance therefore it is felt that whilst the existing parking/turning arrangements appear substandard this proposal will not significantly alter them. A refusal on these grounds is not, therefore, considered reasonable.

The vehicular access serving the parking area is also substandard as it does not afford satisfactory visibility for vehicles entering Halifax Road especially on its north western side. However, as an approval of this proposal is unlikely to lead to a material increase in its vehicular use it is considered that it would be difficult to sustain an objection to the scheme on these grounds either.

The proposal has been considered by Highways who consider it to be acceptable as submitted.

KC Environmental Health have requested a condition requiring the provision of an electric vehicle charging point as part of the development. This has been considered but, on balance, it is felt that this could not reasonably be justified in this instance given the very modest scale of the proposed development. It is however proposed to request such provision by way of an informative.

In view of the above it is considered that the proposal will, on balance, be acceptable in highway safety terms reasonably satisfying the requirements of Policies LP21 and LP22 of the Local Plan and of the Highway Design Guide SPD (2019) in this regard.

Other Issues

The Technical Housing Standards require that a one bedroomed dwelling located wholly on one floor has a minimum floor area of at least 39 square metres if it is to be occupied by one person or 50 square metres if it is to be occupied by two people. It is not known how many people are to occupy this property but the proposal nevertheless meets both standards.

The standards also require the provision of at least one square metre of internal built-in storage space or 1.5 square metres if the flat is to be occupied by two people. No details of this are shown on the submitted plans but the flat is considered to be large enough to reasonably accommodate such space without rendering it substandard in other respects.

Conclusion

The proposed use of part of this building for residential purposes is considered acceptable in principle. Furthermore, it is considered that the development will reasonably safeguard the visual amenity of the area, the amenities of surrounding properties, the amenities of future occupiers of the flat (subject to the implementation of suitable sound attenuation measures) and, on balance, highway safety. The proposal is therefore considered to be in accordance with the requirements of Policies LP1, LP3, LP11, LP20, LP21, LP22, LP24 and LP52 of the adopted Local Plan, Sections 2, 5, 9, 12 and 15 of the National Planning Policy Framework and the provisions of the Housebuilders Design Guide SPD (2021) and Highway Design Guide SPD (2019)

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2020/91132

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: To accord with 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, LP3, LP11, LP20, LP21, LP22, LP24 and LP52 of the Kirklees Local Plan, Sections 2, 5, 9, 12 and 15 of the National Planning Policy

Framework and the Provisions of the Housebuilders Design Guide SPD (2021) and Highway Design Guide SPD (2019).

3. Notwithstanding the details submitted with the application, details of the measures to be taken to safeguard future occupiers of the flat from noise from the ground floor restaurant and from other significant external noise sources shall be submitted to, and approved in writing by, the Local Planning Authority. The approved measures shall be completed in full before the flat is first occupied and shall thereafter be satisfactorily retained at all times.

Reason: To safeguard future occupiers of the flat from excessive external noise, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan and Section 15 of the National Planning Policy Framework.

NOTE With reference to condition 3, all noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants <http://www.association-of-noise-consultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

NOTE In order to safeguard nearby residential properties from excessive construction noise at certain times of the day it is recommended that any noisy construction activities are limited to between the hours of:

- 07.30 to 18.30 hours Mondays to Fridays

- 08.00 to 13.00 hours Saturdays
- With no noisy activities on Sundays or Public Holidays

For your information Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Section 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists, or is likely to occur or recur. Failure to comply with a notice served using the above mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

NOTE Where an electrical vehicle charging point is to be installed, a Standard electric vehicle charging point is one which is capable of providing a continuous supply of at least 16A (3.5kW). A 32A (7kW) is however more likely to be futureproof

- Standard charging points for single residential properties that meet the requirements specified in the latest version of “*Minimum technical specification - Electric Vehicle Homecharge Scheme (EVHS)*” by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 sockets would be acceptable.
- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location and Site Plan	20/2495/BP5		15/04/20
Existing and Proposed Ground Floor Plan	20/2495/BP1		15/04/20
Existing Site and Proposed First Floor Plan	20/2495/BP2		15/04/20
Existing and Proposed Side and Rear Elevations	20/2495/BP4		15/04/20

Plan Type	Reference	Version	Date Received
Existing and Proposed Side and Front Elevations	20/2495/BP3		15/04/20

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. In this case, the application was considered to be acceptable in its current form and no amendments were sought.

Report Dated:

14.07.21