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:	2020/62/92162/W
Site Address:	Unit 2, Royd Street, Milnsbridge, Huddersfield, HD3 4QX
Description:	Use of premises for MOT testing in combination with existing vehice repair and maintenance business (within a Conservation Area)
Recommending Officer:	Stuart Howden

DECISION – Full Conditional 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.

Neil Bearcroft

AUTHORISED OFFICER

Date: 07-Oct-2020

Officer Report

Site Description

Unit 2, Springfield Mill, Royd Street, Milnsbridge, Huddersfield, HD3 4QX

The site comprises the end of an industrial building constructed from stone and corrugated metal, underneath a corrugated metal roof. The site has recently been occupied by F Autos, who operate a motor vehicle repair and maintenance use from the site (a B2 use – 'general industry') and there appears to have been a history of other vehicular repair and maintenance businesses operating from this site, including 'Essenem Services' in 2012 as well as 'Magic Wheels'.

Sharing the industrial building are the commercial businesses of ProPaint Products and The Kitchen Factory. This building backs onto Wood Street (to the South West), whilst the front of the building is situated on the North East side, with an informal parking area to the front of this wall. The site forms part of Springfield Mills which is a commercial area which is accessed from an un-adopted lane off Royd Street to the South East.

Directly to the North West and South West of the site are residential properties, with the nearest of those to the site fronting Wood Street. Directly to the North and East of the site are other commercial businesses.

The site is within the Milnsbridge Conservation Area, but there are no listed buildings within close proximity to the site.

Proposal

Planning Permission is sought for MOT testing at the site in conjunction with the existing motor vehicular repair and maintenance elements at the site.

Whilst an MOT testing use on its own would fall under a separate use class from B2, in this case it is sought to combine the MOT testing use in combination with vehicular repairs and maintenance already being conducted at the site. Typically, the activities involved in MOT testing are not intrinsically different from those arising in the normal course of vehicle servicing, and could be regarded as elements of the same operation. In this instance it is likely that the incorporation of MOT testing into the business would not form a material change of use and would form an ancillary function to that of the existing use (i.e. the use would still fall within a B2 with the addition of the MOT testing element). The applicant has also confirmed that the repairs would not only be as a result of the MOT testing.

No external works are proposed as a result of this application.

Procedural Note

The description of development was amended following correspondence with the applicant that it is the intention to combine MOT testing with the existing use at the site (i.e. vehicle repair and maintenance) and not

As of 1st September 2020 the Use Class Order was revised. However, for applications for planning permission which are submitted before 1 September 2020 (such as this application before the Local Planning Authority), these must be determined by the local planning authority using the existing use classes rather than the new ones. Regardless of this, the B2 use has not been amended as of 1st September 2020.

History of negotiations/amendments received

No amendments have been sought during this application.

Relevant Planning History

No planning history relevant to this site.

Representations

Final publicity date Expires:
Neighbour letters expired on 24th August 2020. Site Notice expired 3rd September 2020. Press Notice expired on 28th August 2020.

Two representations have been received as a result of the above publicity. These are summarised below, and the full comments can be viewed on the Kirklees Planning website. These comments will be addressed in the assessment section of the report below.

One letter raises queries in relation to the application, asking whether consideration is being given to noise reduction, traffic calming and speed reduction signs.

The other letter objects to the application for the following reasons:

- Concerns of unsafe driving within Springfield Mills (with no separate pedestrian access to the site);
- Unsafe access into Springfield Mills off Royd Street and the risks would increase if permission granted;
- Noise nuisance from increased activity by vehicles in Springfield Mills;
- Increase in fumes;
- Light pollution/nuisance from activity at night within Springfield Mills.

Consultation Responses

KC Conservation Officer: *"As the proposal is for a change of use with no alterations to the building, and the proposal site has no heritage significance I have no comments on this proposal."*

KC Highways Development Management: *"There are existing terrace houses at the site entrance from Royd Street which do not have any existing pedestrian facilities to the frontage and concern is expressed by objectors regarding the speed and increase in volume of traffic. Whilst Highways Development Management (HDM) would share the objectors concerns the proposed use as an MOT Station is similar to the existing use and the existing industrial unit is not increased in size and HDM could not therefore on-balance justify a refusal of this proposal."*

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 Proposals Map.

However, the site is within the Milnsbridge Conservation Area.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Section 72 of the Planning (Listed Building & Conservation Areas) Act (1990) is mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, LP35 states: *"development proposals affecting a designated heritage asset…should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm."* This will be assessed and discussed later in the report.

Kirklees Local Plan (LP):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 7** – Efficient and Effective Use of Land and Buildings
- **LP 8** – Safeguarding Employment Land and Premises
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 35** – Historic Environment

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 6** – Building a Strong, Competitive Economy
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 12** – Achieving Well-Designed Places
- **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
2) Impact on visual amenity (including historic environment)
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g. trees/ecology (e.g. bats)
6) Representations
7) Conclusion

1 – Principle of development:

Paragraph 7 of the National Planning Policy Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 goes onto note that achieving sustainable development has three overarching objectives (social, environment and economic), and these are interdependent and need to be pursued on mutually supportive ways.

In line with the National Planning Policy Framework, policy LP1 of the Kirklees Local Plan declares that:

"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."

Paragraph 80 of the National Planning Policy Framework states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The site is within a commercial area and itself is in a general industrial use (B2), but the site is not allocated as a priority employment area in the Kirklees Local Plan 2019.

An MoT testing use on its own would constitute a change of use to a sui generis use. However, the applicant intends to continue operating the site for vehicle repairs and maintenance, but wishes to gain formal consent to operate MOT testing alongside this.

As noted above, typically, the activities involved in MOT testing are not intrinsically different from those arising in the normal course of vehicle servicing, and could be regarded as elements of the same operation. In this instance it is likely that the incorporation of MOT testing into the business would not form a material change of use and would form an ancillary function to that of the existing use. The applicant has also confirmed that the repairs would not only be as a result of the MOT testing.

Section 55 of the Act establishes that the making of a material change of use of a building represents development. The operation as an MOT testing station to the wider vehicle repair use is not considered to introduce a use that would be considered unusual or out of character to the current use and as such not materially different. Moreover, the MOT testing use will likely to lead to an increase in the vehicle repair use, which would result in the MOT use continuing to be simply another element of the business and not a dominant use in its own right.

Given the above, there is not considered to be any conflict with the spatial or employment policies within the Kirklees Local Plan and it is considered that the principle of the proposal is acceptable. Other material considerations will be discussed below.

2 – Impact on visual amenity:

The NPPF offers guidance relating to design in chapter 12 (achieving well designed places) whereby 124 provides a principal consideration concerning design which states:

"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

"a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape…

'c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details..."

No external changes are being applied for under this application. In addition to this, the site is already in an industrial use within a commercial area and the addition of the MOT testing use to the current business is not considered to constitute a material change of use. The Conservation Officer has also raised no objections to the application. It is therefore considered that the proposal would not cause detrimental harm to the visual amenities of the locality or harm to the significance of the Milnsbridge Conservation Area. The proposal is considered to comply with Local Plan Policies LP24 and LP35 and Chapters 12 and 16 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Section B and C of LP24 states that alterations to existing buildings should:

"…maintain appropriate distances between buildings' and '…minimise impact on residential amenity of future and neighbouring occupiers."

Further to this, Paragraph 127 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Paragraph 180 of the National Planning Policy Framework states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions.

No external changes are being applied for under this application therefore the main matter for consideration in respect of residential amenity is whether the proposal would cause an unacceptable nuisance to surrounding uses. Concerns have been raised in representations in relation to noise nuisance, light pollution at night and fumes from the site.

It is acknowledged that there are residential properties within close proximity to the site. However, as noted above, it is considered that what is being applied for does not constitute a material change of use, i.e. with the MOT testing element in combination with the current use, the site would still be in a B2 use. Regardless of this, it is considered that the inclusion of MOT testing element at the business would not result in materially greater levels of noise or fumes being omitted from the building where MOTs would be conducted, when considering the industrial activities undertaken from this building (vehicle repair and maintenance).

The representation from a nearby neighbour of the site objecting the application also raises concerns that nuisance will increase due to an increase of vehicles within the Springfield Mills estate. The representation from this neighbour also expressed concerns with activities taking place at

night and noted that they have experience glare from vehicles within the site that are being worked on.

However, as noted, the proposal is not considered to constitute a material change of use from the existing use at the site. Furthermore, whilst the business may experience more custom as a result of offering MOT testing in addition to repairs, it is considered that the number of vehicles within the Springfield Mills estate would not materially increase due to the addition of MOT testing along with maintenance and repairs. In relation to any activities at night, there appear to be no planning conditions restricting the use of the site and for such an application is not considered necessary or reasonable to place restrictions on hours (i.e. because there is no material change of use taking place). However, for any activities constituting a nuisance, the Council's Anti-Social Behaviour Team are the relevant body to contact.

Given the above, it is considered that the proposal complies with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

It is acknowledged that concerns have been raised in relation to the safety of the access to Springfield Mills from Royd Street and how drivers are using the un-adopted lane off Royd Street, and that the risks will increase due to an increase in the volume of traffic. The Council's Highways Department has understood these concerns, they have raised no objections. Whilst the MOT element may result in an increase in custom at the site, again, it is important to stress that the proposal would not result in a material change of use, therefore it would be unreasonable to refuse the application on highways safety grounds, or recommend highways related planning conditions.

The impact upon highway safety is considered to be acceptable and the proposal is therefore 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:

Climate Change
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 predates 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.

Considering that no material change of use would take part as a consequence of this application, it is considered that the proposal would not have an impact on climate change that needs mitigation to address the climate change emergency.

6 – Representations:

Two representations have been received and the comments raised within these have been addressed in the assessment above.

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 proposal would constitute sustainable development and is therefore recommended for approval.

Recommendation **Approve**

Decision Authorisation - Delegated Powers
Application Number: 2020/92162
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 Policies LP7, LP8, LP21, LP22, LP24 and LP35 of the Kirklees Local Plan and Chapters 6, 9, 12, 15 and 16 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application Form			16th July 2020
Location Plan at a scale of 1:1250 on paper size A4			16th July 2020
E-Mail received from the applicant on 4th October 2020 outlining that the MOT use is to be used in combination with the motor vehicle existing repair and maintenance use at the site.			4th October 2020
E-mail received from the applicant on 5th October 2020 that repairs would not only take place following MoT testing			5th October 2020

Statement of Engagement

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 as submitted was considered to be acceptable.

Report Dated: 06.10.2020