

**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: 2020/62/93220/W

Site Address: Milnsbar, 59, Market Street, Milnsbridge, Huddersfield,
HD3 4HZ

Description: Alterations to convert first floor to flat (Within a
Conservation Area)

Recommending Officer: Ellie Worth

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.**

John Holmes

AUTHORISED OFFICER

Date: 27th October 2021

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Officer report

Site description

The application relates to 59 Market Street, Milnsbridge a two storey mid-terrace property. The building appears to be in use as a bar at ground floor with office and residential accommodation at first and second floor. The building has a small yard to the rear, which appears to be used for off street parking, alongside a set of steps providing access to the first and second floor.

The site is situated within Milnsbridge Local Centre and Conservation Area on the Kirklees Local Plan and is surrounded by commercial and residential properties.

Description of proposal

The proposal is seeking permission for the change of use of the existing first floor accommodation associated with Milnsbar, into a residential flat. The submitted floor plans show one bedroom to be provided, alongside an open plan kitchen and dinner and W/C facilities. The internal floor space would be approx. 57 sq. m.

There will be no external alterations as part of this permission.

Bin storage would be below the external steps as demonstrated on the ground floor plan dwg. no 1745(P2)01.

History of negotiations/amendments received

Given the concerns raised by Environmental Health Officers (detailed within the 'consultation responses' and 'Assessment' sections of this report) additional information has been sought. As a result a Noise Report and Compliance Report were received on the 20th September 2021.

Relevant Planning History

At the application site:

2006/94358 Change of use and alterations to convert first floor storage/office to conference room and second floor storage to 1 no. apartment (within a conservation area) – Granted 2011/92942 Change of use of ground floor to restaurant with associated takeaway service (within a Conservation Area) – Granted

2015/91072 Discharge of condition 7 (extract ventilation system) on previous planning permission 2011/92942 for change of use of ground floor to

restaurant with associated takeaway service (within a conservation area) – Approved

2020/90811 Prior notification for change of use from office to one dwelling (within a Conservation Area) – Refused

Representations

The application has been advertised via site notice, neighbour notification letters and the press.

Final publicity expired on 2nd December 2020. As a result of the above publicity, no representations have been received.

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 Highways DM: No objection as the scheme has sufficient parking.
- KC Environmental Health: Initially raised concerns, upon consideration of further information confirms they consider the findings of the reports to be acceptable. Recommend conditions are included upon any grant of consent to ensure the development is undertaken in accordance with the submitted information.

Policy

The site is situated within Milnsbridge Local Centre and Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP7 – Efficient and Effective use of Land and Buildings
- LP15 – Residential use in town centres
- LP20 – Sustainable transport
- LP21 – Highways and Access
- LP22 – Parking
- LP27 – Flood Risk
- LP24 – Design
- LP27 – Flood risk
- LP35 – Heritage
- LP52 – Environmental Protection

Supplementary Planning Documents

- Highways Design Guide 2019
- Kirklees Waste Management Design Guide for New Developments

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, 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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- 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

The space standards within the Nationally Described Space Standards (NDSS) set out minimum standards new housing should achieve, and are considered relevant to the consideration of this application.

Legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

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).

Assessment

The following matters are considered in the assessment below –

- 1.Principle of development
- 2.Impact on visual amenity
- 3.Impact on residential amenity
- 4.Impact on highway safety
- 5.Other matters
- 6.Representations
- 7.Conclusion

1.Principle of development

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the National Planning Policy Framework.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

The principle of the development is considered, in light of the aforementioned policies, and also in regard to the impact of introducing a residential use in a town centre, impact upon the setting of the conservation area and also taking account of the 5 year land supply in relation to housing.

Residential use in town centres

Policy LP15 seeks to ensure that the impact of residential development in identified town centres does not undermine the commercial uses within the town centre. Part a of the policy sets out that residential proposals would normally only be permitted on upper floors.

Given the proposal would be the conversion of the first floor and on the basis the proposal would not prejudice existing established uses the proposal is concluded to be acceptable in terms of the principle of introducing a residential use in an identified town centre.

Heritage

The site is located within Milnsbridge Conservation Area and therefore, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities to pay special attention in order to preserve or enhance the character and setting of land within a Conservation Area. This is reiterated in Policy LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment.

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”. Whether harm exists, and whether it is substantial or less than substantial, will be assessed and discussed later in the report.

Alongside this, LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP24 of the KLP is also relevant and states that “good design should be at the core of all proposals in the district. In this case, the works proposed

would only be to change the use of the first floor and therefore there would be no external alterations.

The development would not see any alterations to the existing building to accommodate the change of use which is proposed. As such it is considered the heritage impact of the development would not be significant given the scope of the development relates to the introduction of residential use. As such the proposal is concluded acceptable in principle in terms of impact upon the Conservation Area.

Housing supply

Alongside the above, the proposal would also lead to the formation of one residential flat within a sustainable local centre. Therefore, it is considered appropriate to consider the Council's housing land supply position. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021). As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019).

Conclusion

Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications, in broad terms, should be considered in the context of the presumption in favour of sustainable development.

Having taken into account general policies regarding the conversion of buildings, within the wider context, it is considered that the principle is acceptable, subject to an assessment against other material planning considerations below.

2. Impact on visual amenity

Chapter 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Local Plan Policy LP24 states that all proposals should promote good design by ensuring the following: 'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape' and that 'extensions are subservient to the original

building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers’.

Section 5 of the Kirklees Waste Management Design Guide for New Developments is considered relevant insofar as it seeks to secure adequate off street bin storage as part of new development which is in an unobtrusive location. In this case the bin storage arrangements would be off street and to the rear in an area which is not easily visible from public vantage points.

In this case, no external alterations are proposed and therefore the works would not affect the sites active frontage for the bar below. For these reasons, it has been considered that the proposal would not harm the visual amenity of the site nor the significance of Milnsbridge Conservation Area. This in turn, would not have a significant impact upon the setting of the Conservation Area in accordance with Policies LP24 and LP35 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

3. Impact on residential amenity

The National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

‘Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary’.

Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level. Paragraph 185 of the NPPF is also considered to be relevant.

A noise assessment has been submitted as part of this application (Noise Impact Assessment Report, ref:- 22155.NIA.01). This report provides average background noise levels (at paragraph 4.1) and sets out a ventilation strategy within section 7 of the assessment, and further measures set out within section 9. The further measures relate to glazing specification, removal of first floor floorboards and installation of noise insulation within the void between the floor and ceiling below as well as the installation of a sound limiter in relation to the ground floor use.

In addition a Planning Compliance Report (ref:- 22155.PCR.01) has been submitted and identifies plant upon the building as requiring the wooden

structure within which it is housed to be upgraded / made good (section 6 of the report) to ensure noise from this plant is to an acceptable level and would not adversely affect the amenity of occupiers of the proposed development.

In this case, the site is within the commercial core of Milnsbridge and is surrounded by other business uses. Alongside the commercial buildings, there are also a mixture of residential units within the vicinity. The nearest properties to the application site, are Flats 1 and 2 at 61a Market Street above the application site and those at 5a and 5b Lipscomb Street.

As such Environmental Health Officers have been formally consulted. They raised concern regarding the impact in which the ground floor bar would have upon the future amenity of the occupiers of the flat. Therefore, a noise report has been requested.

In this case, the findings demonstrated that any impact from the existing condenser to the rear of the bar would not have an unacceptable impact following mitigation measures identified within the report being undertaken. The Environmental Health Team state that, on the basis that any grant of permission is subject to condition to ensure that the development is implemented in accordance with the recommendations of the report, they have no objection in this regard.

Further to a condition to ensure that these works are completed in line with the recommendations of the report, it is also recommended details of an alternative ventilation strategy be included as a condition upon any grant of consent. Subject to conditions the proposal is considered to be acceptable with regard to noise from neighbouring existing uses / operations.

The Environmental Health Team recommend any grant of permission be subject to condition requiring hours of construction be restricted. Given the scale of the proposal it is considered it would be unreasonable of the LPA to restrict hours of construction in this case and it is recommended any grant of consent provides the recommended hours as an informative note.

With regards to the internal level of amenity for the future occupiers, the new flat would provide an internal floor space of 57 sq. m. This would be above the Governments technical guidance of 39m² as set out within the Nationally Described Space Standards document (NDSS). Therefore, the level of internal living space is considered to be sufficient to provide an acceptable level of amenity for the future occupiers, as each habitable room would also benefit from an outlook.

Having considered the above factors and relevant policies, the proposal is not deemed to result in any significant impact upon residential amenity, subject to the aforementioned condition being attached to the decision notice. As such, the proposal is concluded to comply with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 15 of the NPPF.

4. Impact on highway safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide seeks to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

KC Highways DM have been formally consulted as part of this application, as permission is sought to change the use into a residential unit.

In this case, officers have noted that the site is located within the centre of Milnsbridge on Market Street and given the sustainable location of the property, it is well served by public transport.

The proposed flat would provide one bedroom and this requires a designated parking space. This is provided to the rear of the dwelling and is adjacent to the existing parking for the neighbouring flat at second floor.

With regards to refuse, a suitable area has been provided for bin storage to the rear of Milnsbar, under the existing staircase that will give access to the first floor flat.

As such, the application is considered acceptable from a highways perspective, in accordance with Policies LP20, LP21 and LP22 of the KLP, the aims of the Highways Design Guide SPD and Chapter 9 of the NPPF.

5. Other matters

Bats

The application site lies within the bat alert layer on the Councils GIS System. In this case, no external alterations are proposed and therefore, the development is unlikely to impact upon roosting bats, in accordance with Policy LP30 of the KLP and the aims of Chapter 15 of the NPPF.

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.

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures. However, the proposal would provide a sustainable, residential use within a local centre. Windows would also be provided to all habitable rooms in order to aid passive solar gain and reduce the need for artificial light.

Flood risk assessment

The site is within Flood Zone 2 on the Environment Agency's Flood Risk Map for Planning (land assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% – 0.1%)).

Paragraph 159 of the NPPF sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Policy LP27 of the Kirklees Local Plan relates to flood risk and states that proposals must be supported by an appropriate site specific Flood Risk Assessment in line with national planning policy.

To begin with, developments for a change of use are not required to provide a sequential test.

In this case, the current use constitutes to a 'less vulnerable' use in the Environment Agency's 'Flood Risk Vulnerability Classification', whereas the proposed use constitutes a 'more vulnerable' use. Nonetheless, given that the proposal seeks to convert the first floor, the Environment Agency do not have to be consulted and their standing advice can be followed, which outlines their advice for surface water management, access and evacuation as well as floor levels.

A Flood Risk Assessment has been submitted alongside this application.

In terms of the flood evacuation, no plans have been submitted. However, on the matter of floor levels, the ground floor level is already set above the ground by 2000mm and no ground floor accommodation is proposed. The River Colne is also 20m away from the property, whereby the site can be exited in an emergency by the steps to the rear of the building. As such, these measures are considered to mitigate any chance of flooding.

Given the above, officers are content that the proposal would not increase the flood risk on site or elsewhere. A note will also be attached to the decision notice to encourage the future applicants to sign up to receive flood warnings. Therefore, any potential flood affecting the property would give the occupants ample of time to take action. This is to accord with Policy LP27 of the KLP and Chapter 14 of the NPPF.

6. Representations

As a result of the above publicity, 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: 2020/93220

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 in the interests of highway safety in accordance with Policies LP1, LP2, LP7, LP15, LP20, LP21, LP22, LP24, LP27, LP35 and LP52 of the Kirklees Local Plan, the Council's adopted Highways Design Guide and Chapters 5, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. The development hereby approved shall not be brought into use until the Noise Control Measures specified within section 6 of the submitted Planning Compliance Report dated 14th September 2021 (ref:- 22155.PCR.01) and the Noise Mitigation Proposals set out within paragraph 9.1 of the submitted Noise Impact Assessment Report dated 14th September 2021 (ref:- 22155.NIA.01RevA) have been completed. Following completion the development shall not be brought into use until written evidence, to demonstrate that the noise levels specified within section 10.1 of the submitted Noise Impact Assessment Report dated 14th September 2021 (ref:- 22155.NIA.01RevA) have been achieved, has been submitted to, and approved in writing by, the Local Planning Authority. In the event that the noise levels specified in section 10.1 of the submitted Noise Impact Assessment Report dated 14th September 2021 (ref:- 22155.NIA.01RevA) are exceeded, the development shall not be brought into use until a scheme has been submitted to, and approved in writing by the Local Planning Authority, which details further noise mitigation measures to be undertaken, that they

have been installed and completed, and that the levels within section 10.1 of the submitted Noise Impact Assessment Report dated 14th September 2021 (ref:- 22155.NIA.01RevA) are met. The noise mitigation measures approved by this condition shall be thereafter retained for the lifetime of the development.

Reason: In the interests of the protection of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

4. The development hereby approved shall not be brought into use until a scheme has been submitted to, and approved in writing by, the Local Planning Authority which demonstrates that the airborne sound insulation performance of the party ceiling of the development is of a minimum of 55dB Dntw+Ctr. In the event that the airborne sound insulation performance of the party ceiling of the development is not of a minimum of 55dB Dntw+Ctr, the development shall not be brought into use until a scheme has been submitted to, and approved in writing by the Local Planning Authority, which details further noise insulation measures to be undertaken, that they have been installed and completed, and that the sound insulation performance of the party ceiling of the development is of a minimum of 55dB Dntw+Ctr. The noise insulation measures approved by this condition shall be thereafter retained for the lifetime of the development.

Reason: In the interests of the protection of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. Notwithstanding the submitted Noise Impact Assessment Report (ref:- 22155.NIA.01) the development hereby approved shall not be brought into use until a ventilation scheme for rooms where windows need to be kept closed to prevent excessive noise levels shall be submitted to and approved in writing by the Local Planning Authority. The ventilation scheme shall include a) which rooms require a ventilation system; b) the acoustic specification of the proposed ventilation system demonstrating that when operated it will not cause indoor noise levels to exceed those required by condition no.3 of this permission; c) how habitable rooms of shall be provided with sufficient ventilation to ensure thermal controls are in place to prevent over heating during hot weather conditions without the need to open windows; d) details of the air intake location and heat recovery system. The development shall not be brought into use until the approved scheme has been completed. The approved scheme shall thereafter be retained and maintained for the lifetime of the development.

Reason: In the interests of the protection of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

NOTE: A ventilation scheme that meets the performance specification given in Part 6 of Schedule 1 of the Noise Insulation Regulations 1975 is likely to be acceptable. Acoustic trickle ventilation alone is unlikely to provide sufficient ventilation to help control thermal comfort without the need to open windows and would therefore not be acceptable.

NOTE: Noisy construction related activities shall not take place outside 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

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 Sections 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.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan and existing ground floor plan	1745(P2)01	-	28 th September 2020
Existing first floor plan	-	-	28 th September 2020
Proposed elevation	1745(P2)03	-	28 th September 2020
Proposed first floor plan	-	-	28 th September 2020
Flood risk assessment	-	-	28 th September 2020
Noise Impact Assessment Report	22155.NIA.01	B	20 th September 2021
Planning Compliance Report	22155.PCR.01	-	20 th September 2021

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 Planning 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 instance, given the concerns raised by Environmental Health Officers, additional information has been sought in the formation of a Noise Report and Compliance Report. These were received on the 20th September 2021.

Dated: 25th October 2021.

