

**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: 2020/62/93781/E

Site Address: Krystals Hair And Beauty, 20, Cheapside,
Cleckheaton, BD19 5AF

Description: Change the use from retail (A1) to drinking
establishment (A4)

Recommending Officer: Josh Kwok

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.

Paul Dowd

AUTHORISED OFFICER

Date: 12-Jan-2021

Officer Report

Site Description

20 Cheapside, Cleckheaton is a vacant retail unit formerly occupied by a hairdresser. The shopfront comprises a stone stallriser, two externally mounted, white powder-coated shutter boxes and a fascia sign above. Cheapside is a main shopping street of Cleckheaton Town Centre and is characterised by a mix of shops, local services, and hot food outlets. Buildings on either side of the road form part of the primary shopping frontage of the town centre.

Description of Proposal

Permission is sought for change of use from retail (Class E) to drinking establishment (sui generis). Details of the development proposal are set out as follows.

- No external alterations to the existing shopfront
- The opening hours are: -

Mondays to Fridays 12:00 to 22:00

Saturdays 12:00 to 22:00

Sundays and Bank Holidays 13:00 to 20:00

History of negotiations/amendments received

The application description has been amended to reflect the recent changes to the Use Classes Order.

Relevant Planning History

2000/93733 – Erection of 1no. illuminated projecting sign (20 Cheapside) – Approved

Representations

This application was publicised by neighbour letter, expired on 25-Dec-2020. One representation was received from a member of public, who wrote in support of this application.

Consultation Responses

K.C Highways DM Team – no objection

K.C Police Architectural Liaison Officer – no objection

K.C Environmental Health Service – consulted but no comments received

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is within Cleckheaton Town Centre on the Kirklees Local Plan.

Kirklees Local Plan (KLP):

- LP01 – Presumption in favour of sustainable development
- LP02 – Place shaping
- LP13 – Town centre uses
- LP14 – Shopping frontages
- LP16 – Food and drink use and the evening economy
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP24 – Design
- LP25 – Shopfront and advertisement
- 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.

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- 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 change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

1) Principle of development

The site is without notation of the Kirklees Local Plan (KLP). The proposal is for change of use to a drinking establishment, which falls to be considered a

main town centre use, as identified in the NPPF. It is in a town centre location and, therefore, not subject to the requirement for a sequential test outlined in paragraph 86 of the NPPF and policy LP12 of the KLP.

In this case, policy LP16 relating to food and drink use and evening economy is also relevant to the assessment of the current scheme. This policy states that proposals for food and drink uses could be supported, provided they are located within a defined centre. They should not result in over-concentration of food and drink uses in a particular part of a centre, nor should it give rise to any adverse impact on the character, function, vitality, and viability of the centre, either individually or cumulatively. As well as this, consideration must be afforded to the potential of noise and disturbance and anti-social behaviour, the availability of public transport, parking and servicing, the provision of refuse storage and collection and, lastly, the overall appearance of any associated flues and installations.

As already noted earlier, the site is within a defined town centre in the KLP. Whilst there are already few hot food outlets on Cheapside, the change of use concerned is unlikely to result in overconcentration of food and drink uses in this part of the centre. The street would remain commercial in character, with all buildings immediately adjacent occupied by mostly shops. The opening hours of the drinking establishment would be between 12:00 at the earliest and 22:00 at the latest. It would bring a vacant retail unit back into a potentially viable use and would, thereby, increase footfall and linked trips. Moreover, the hours of opening concerned would assist in retaining an active frontage at the daytime, as well as in the evening.

The proposal would admittedly reduce the number of retail units along Cheapside. However, with the many changes to the Use Classes Order that came into effect on 01-Sep-2020, it is acknowledged that all shops, irrespective of their locations, could now be used for alternative purposes, falling within Class E, which includes a variety of non-retail uses. Taking account of this factor alongside others already highlighted above, officers are of the view that the principle of development could be supported in respect of policies LP13, LP14 and LP16 of the KLP and chapters 6 and 7 of the NPPF.

1) Impact on visual amenity

The proposal is for change of use of an existing shop to a drinking establishment. No external alterations are proposed for the existing shopfront. Hence, the development concerned would not give rise to any adverse impact on visual amenity. Cheapside is characterised by a mix of shops and local services. The change of use proposed would be in-keeping with the prevailing diverse character of the town centre. It would not adversely affect the local character and the street-scene.

On this basis, officers conclude that the proposal is acceptable in terms of visual amenity and consistent with the aims of policies LP16(g), LP24 and LP25 of the KLP and chapter 12 of the NPPF.

2) Impact on residential amenity

The application site is within a town centre location, surrounded by non-residential development to all aspects. The hours of opening are proposed to be between 12:00 and 22:00. They could be considered appropriate in the context of this site and its surroundings. The police architectural liaison officer did not raise any objection to the proposal on public safety grounds, nor did he recommend any condition in relation to the hours of use.

Although the Environmental Health Service has not provided any comments on this application, given the location of the site and the hours of use proposed, officers find that the development could be supported from a residential amenity perspective. To manage the potential noise associated with the drinking establishment, a condition should be imposed to limit the hours of use to 08:00 and 22:00 Mondays to Saturdays and 08:00 to 20:00 Sundays and Bank Holidays. Subject to this, the proposal would accord with policies LP24 and LP52 of the KLP and chapter 15 of the NPPF.

3) Impact on highway safety

The building, which is currently vacant, comprises numbers 20 and 22 Cheapside, which, together, were a double fronted beauty salon and hairdressers. Internal work would include installation of a bar, seating, and cosmetic changes.

Waste bins are securely gated away from the road, towards the rear of the property. The applicant's intentions regarding deliveries is that, as they will only be working with small, independent brewers, deliveries will be small. There will be no large vehicles. Deliveries will be by small van and will consist of one or two kegs.

Given the scale of development in question, and the town centre location, there is considered no adverse impact on the operation and efficiency of the local highway network. No parking issues are anticipated either. In short, the proposal would conform to policies LP16(d), (e) and (f), LP21 and LP22 of the KLP.

4) Other matters

Ground condition

The site is within a "Development High Risk Area" identified by the Coal Authority. However, the proposal is for change of use, which falls to be considered an exemption outlined in the Coal Authority Exemption List. As such, a Coal Mining Risk Assessment is not required in this instance. To comply with policy LP53 of the KLP and chapter 15 of the NPPF, a footnote would be inserted to the decision notice, advising the applicant further on this matter.

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 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.

In this case, the proposal is for change of use of an existing vacant retail unit to a drinking establishment. The site is in a sustainable location, falling within the town centre with good provision of public transport. Noting the scale of development as well as its location, officers find the proposal complies with Policy LP51 of the KLP and Chapter 14 of the NPPF. No further conditions are necessary to make this development acceptable in respect of carbon emissions.

There are no other matters considered relevant to the determination of this application.

5) Representations

One representation was received from a member of public following the statutory publicity. The comments have been considered in the principle of development section in this report.

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 – Conditional Full Permission

Decision Authorisation - Delegated Powers

Application Number: 2020/93781

Officer Recommendation: Conditional Full Permission

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 to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP13, LP16, LP21, LP24, LP25 and LP52 of the Kirklees Local Plan as well as Chapters 6, 7, 12 and 15 of the National Planning Policy Framework.

3. Unless otherwise agreed in writing by the Local Planning Authority, the drinking establishment hereby approved shall not be open to customers outside the hours of 08:00 and 22:00 Mondays to Saturdays, 08:00 to 20:00 Sundays and Bank Holidays.

Reason: In the interests of residential amenity and to protect the occupants of the neighbouring residential properties from unacceptable noise and disturbance at unsocial hours in accordance with Policies LP16, LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: Any advertisements are likely to require separate Advertisement Consent. Details on how to apply for such applications can found at www.kirklees.gov.uk/planning

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location plan			17-Nov-2020
Internal layout			17-Nov-2020
Supporting statement			17-Nov-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 has, 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.

Report dated: 11-Jan-2021