# 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:** | 2021/62/90756/W |
| **Site Address:** | 9, Brook Street, Huddersfield, HD1 1EB |
| **Description:** | Alterations to convert part of ground floor from retail unit to 2 residential units (within a Conservation Area) |
| **Recommending Officer:** | Stuart Howden |

**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.**

Teresa Harlow

***AUTHORISED OFFICER***

**Date: 13-May-2021**

# Officer Report

## Site Description

9 Brook Street, Huddersfield, HD1 1EB

9 Brook Street is a three storey stone built property located within Huddersfield Town Centre. At the time in which the site visit was undertaken it was apparent that the ground floor premises were vacant. The site is located within a predominantly retail/commercial area, however the previous application 2017/91197 approved residential units within the second and third floors of the building.

The site is also located within Huddersfield Town Centre Conservation Area and is situated close to numerous designated Listed Buildings, including the Grade II* listed Market Hall, as well as the Grade II listed No.11 Brook Street next door. The property backs on to the Tesco car park to the north. To the east side of the building is a servicing yard.

## Description of Proposal

Planning permission is sought for a change of use part of the ground floor of the building from retail (E(a)) to two residential apartments. It is proposed to reduce the floor space of the retail unit at the ground floor level, but the retail unit would still front the street (Brook Street).

To the very rear of the ground floor level, a studio apartment is proposed, and between the reduced retail use and the studio apartment, a 1 bed apartment is proposed. The proposal involves external alterations to the side elevations of the building at ground floor level including new windows and the creation of a terraced area to serve the studio apartment (enclosed with black railings). No on-site parking is proposed.

## History of negotiations/amendments received

Officers raised concerns regarding the internal living space that would be provided for future occupiers of the proposed development, and the scheme was amended to provide a greater level of natural light to the proposed 1 bedroom apartment, thereby addressing officer concerns.

## Relevant Planning History

- 2019/90673 – Advertisement consent for erection of LED display sign (within Conservation Area) – Consent granted.
- 2017/91197 Alterations and change of use of public house (A1) to form residential unit (non food) and 6 residential units (C3) (within a Conservation Area) – Granted.

- 2010/93369: Change of use from café to public house (within a Conservation Area) (Conditional Full Permission).
- 89/06434: Conversion of second floor of public house to flat (Granted Conditionally).

**Representations**

Final publicity date Expires:
Neighbour notification letters expired on 15th April 2020; Site notice expired on 7th April 2020; Press advertisement expired on 16th April 2020.

No representations were received.

It was not considered necessary to re-consult when amended plans were received (as alluded to above) given that the alterations proposed externally to the building were modest.

**Consultation Responses**

KC Conservation and Design: No objections.

KC Environmental Health: No comments received.

KC Highways Development Management: No objections subject to a condition regarding waste management.

KC Policy: No objections.

KC Strategic Housing: No comments received.

KC Town Centres: No comments received.

**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 2019, but the site is located within the Huddersfield Town Centre Conservation Area and is located within the designated Huddersfield Town Centre in the Kirklees Local Plan.

**Kirklees Local Plan (LP):**

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP7** – Efficient and Effective Use of Land and Buildings

- **LP 11** – Housing Mix and Affordable housing
- **LP 13** – Town Centre Uses
- **LP 15** – Residential Use in Town Centres
- **LP 17** – Huddersfield Town Centre
- **LP 21** – Highway Safety and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 35** – Historic Environment
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land

**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 8** – Promoting Healthy and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Effective Use of Lane
- **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

**Assessment**

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity (including impact upon historic environment)
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters – e.g. trees/ecology (e.g. bats)
5) Representations
6) 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 in 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."*

Policy LP2 states that: *"All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes..."*

The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

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

Chapter 7 of the NPPF relates to ensuring the vitality of town centres and states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption. Paragraph 85 states that it should be recognised that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

Policy LP13 of the Kirklees Local Plan relates to town centre uses and sets out that within Kirklees, main town centre uses shall be located within defined centres. These consist of principal town centres, town centres, district centres and local centres. The Policy outlines that proposals that have a significant adverse impact on the vitality and viability of a centre, or compromise the role and function of a centre will not be supported.

Policy LP17 of the Kirklees Local Plan states that Huddersfield Town Centre will be the principal focus for high quality comparison retail goods within the district, supported by a range of leisure, tourism, office (including high quality grade A office space), and other main town centres uses. The policy notes that Huddersfield town centre will also provide high quality educational facilities and opportunities for town centre living.

Policy LP15 of the Kirklees Local Plan relates to residential uses within town centres and sets out that such uses (including student accommodation) will be supported subject to:

a) the protection of primary shopping areas, primary and secondary shopping frontages, and space for other main town centre uses within the defined centre. Residential proposals in these areas shall normally only be permitted on upper floors, and shall not prejudice existing established uses;
a) the protection of the character of the centre, and the local street scene. Proposals should retain and enhance the design and heritage features of buildings;
b) the protection and retention of existing ground floor uses and active frontages both within and outside the primary shopping area,
c) the protection of the amenity of existing residents and future occupiers of the proposed residential use in accordance with amenity and design policies within the plan, and will in particular consider matters such as privacy, noise and air quality;
d) the provision of space for the storage of sustainable modes of transport such as bicycles, where appropriate charging points of electric vehicles, and access to public transport;
e) the provision of space for vehicular parking which is appropriate to the scale of the proposal, particularly where it would otherwise cause highway and pedestrian safety concerns;
f) provision of affordable housing in accordance with policies set out in the Local Plan; and
g) the provision of refuse storage and collection.

The property is located within Huddersfield Town Centre and the lawful use of the ground floor is E(a) (retail), but the unit is currently vacant.

The proposal to convert part of the ground floor to residential would result in the loss of part of the retail floorsplace at ground floor level, but the proposal would retain the active retail frontage onto Brook Street. Whilst, it is noted that the amount of E(a) floorspace would be reduced and residential uses within the town centre are preferred on the upper floors, KC Policy have not objected to the principle of this change of use, and it is considered that the retained retail use would still be useable for an E(a) use, and the serving arrangements would not be materially altered by the proposed development. Given the above, it is considered that the proposed change of use would not compromise the function and role of Huddersfield Town Centre, nor would it adversely harm the viability and vitality of this centre.

The principle of the proposed change of use to two residential units could therefore be acceptable, but the principle of the development will also be subject to other considerations, including bullet points b and d-h of Policy LP15 of the Kirklees Local Plan. These matters will be discussed below.

**2 - Impact on visual amenity (including impact upon historic environment):**

The site is located within Huddersfield Town Centre Conservation Area and is located within a row of properties, some of which are Grade II listed. Across from the site is also the Grade II* Huddersfield Open Market.

Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, LP35 states that *"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."*

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…'*

The external works proposed are considered to be modest alterations to the side elevations of the existing building and consist of the creation of windows at ground floor level and the creation of a minor terraced area. It is considered that such modest alteration would have a negligible impact upon the visual amenities of the area.

Further to this, the elements of the building where alterations are proposed are not considered to contribute to the significance of the conservation area or the nearby listed buildings, and for this reason the Conservation Officer has not objected to the proposed modest changes. It is therefore considered that the proposed alterations would not cause harm to the significance of the Huddersfield Town Centre Conservation area, as well as the significance of the nearby listed buildings and their setting. Whilst a Grade II* listed building is across the road from the site, given the above factors and that the proposal would not affect the setting of this building, it was not considered necessary to consult Historic England on this application.

It is therefore considered that the proposed development would 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."*

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

Further to this Policy LP15 criteria (d) notes that regard should be given to the protection of the amenity of existing residents and future occupiers of the proposed residential use in accordance with amenity and design policies within the plan (and particular consideration should be given to matters such as privacy, noise and air quality).

The proposed alterations to the building would not cause undue harm any other nearby neighbouring properties in terms of loss of light, loss of outlook or the creation of an overbearing effect due to the minor nature of the works. Whilst new windows are proposed in the side elevations at ground floor level, there are no residential properties directly to either side of No.9 therefore it is considered that the proposal would not result in an undue loss of privacy for neighbouring occupiers.

Consideration also needs to be given to the living conditions of the proposed future occupiers of the apartments under this application.

In terms of internal floor space, the proposed studio apartment of 38m$^2$ and the proposed 1 bedroom dwelling of 40m$^2$ would just exceed with the minimum recommended floor spaces for such units as set out within Nationally Described Space Standards.

The habitable rooms of the proposed 1 bedroom dwelling unit would be served by windows, as would the studio unit. However, the majority of these windows would overlook a relatively narrow courtyard area, which is surrounded by a by development (some of which is 3 storey in height) and the windows would directly face a 3 storey building which is approximately 6 metres away. Thus, the level of outlook from these windows would not be optimal, but on balance, and considering the town centre location of the site, this arrangement is considered acceptable.

The surrounding environment is another factor which requires attention in relation to the living standards of the proposed occupiers, of note the surrounding noise environment. Of note, Paragraph 182 of the NPPF outlines that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities, and where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.

The site is located in Huddersfield Town Centre, close to a busy car park and market which are sources of noise pollution. It is noted that there are other residential properties within the building of No.9 (approved under 2017/91197) and it is considered unlikely that the noise climate will have significantly changed since then, therefore Officers are satisfied an adequate standard of amenity could be provided from a noise nuisance point of view. Comments have not been received from the Council's Environmental Health Officer to date, but for a pre-application proposal at the site for another residential use, they stated that noise mitigation measures (mainly enhanced acoustic glazing and alternative ventilation to opening windows) will be required to ensure that noise levels for future occupiers are acceptable. Thus, a noise report with mitigation measures shall be conditioned should permission be granted.

On balance, and subject to conditions, it is considered that the proposed development complies with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

**4 – Impact on highway safety:**

No off-street parking is proposed for the development. However, Kirklees Highways Development Management (HDM) have raised no objections to such an arrangement; this is due to the site being within a highly sustainable location (in Huddersfield Town Centre), within easy walking distance of

services and facilities, the train station and bus stops. Officers see no reason to disagree with this conclusion

However, Kirklees HDM have requested that an adequately sized and located bin store and collection pad is demonstrated on a plan. It appears that there is adequate space on the site for such facilities and prior to the first occupation of the dwellings these further details can be conditioned.

Given the above, 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 the small-scale of the proposed development and that it is re-using an existing building, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency.

*Coal Mining Risk*
The site is located within a high coal area on the Council's internal database. Given that the proposal is for a change of use and no ground works are proposed, it is not necessary to consult the Coal Authority.

*Affordable Housing*
As the scheme is for less than 10 units, there is no policy requirement to provide affordable housing under this application. The proposal is therefore meets criteria (g) of Policy LP15 of the Kirklees Local Plan.

**6 - Representations:**

No representations have been received.

**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 proposed development would constitute sustainable development and is therefore recommended for approval.

**Recommendation** **Approve**

**Decision Authorisation - Delegated Powers**

**Application Number**: 2021/90756

**Officer Recommendation**: Approve

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 LP7, LP11, LP13, LP15, LP17, LP21, LP22, LP24, LP35, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 5, 7, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. Prior to the first occupation of the dwellings hereby approved, a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development (nearby commercial premises, deliveries to these premises, noise from external plant and ambient background noise) 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 gardens (daytime), 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 dwellings hereby approved 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 ensure the proposed occupiers are provided with a good standard of amenity and 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. Prior to the first occupation of the dwellings hereby approved, the proposed windows to the side elevations of the buildings displayed on Drawing No. 2462/1 02 Revision A shall be installed and retained thereafter.
**Reason**: To ensure the proposed occupiers are provided with a good standard of amenity and in accordance with Policies LP15 and LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

5. Prior to the first occupation of the dwellings hereby approved, details of suitable storage, bin presentation points and access for collection of wastes from the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation of the hereby approved dwellings and shall be so retained thereafter.
**Reason**: In the interests of highways safety, in the interests of visual amenity and to accord with Policies LP21, LP24 and LP43 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

**NOTE**: The council's Highway Safety department wish for it to be noted that no on-street parking would be available for residents of the property, nor would they qualify for parking permits.

Plans and specifications schedule:-

| **Plan Type** | **Reference** | **Version** | **Date Received** |
|---|---|---|---|
| Application Form | - | - | 24th February 2021 |
| Location Plan | 2462 LOC | - | 24th February 2021 |
| Existing Floor Plans and Elevations | 2462/1 01 | - | 24th February 2021 |
| Proposed Floor Plans and Elevations. | 2462/1 02 | A | 20th April 2021 |
| Cover Letter from Agent dated 23rd February 2021 | HG/JC/2462 | - | 24th February 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 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.

Officers raised concerns regarding the internal living space that would be provided for future occupiers of the proposed development, and the scheme was amended to provide a greater level of natural light to the proposed 1 bedroom apartment, thereby addressing officer concerns.

**Report Dated:** 12.05.2020