

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

**Planning (Listed Buildings and Conservation Areas) Act 1990 (as
amended) – SECTION 16**

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR LISTED
BUILDING CONSENT**

Reference No: 2021/65/90891/E

Site Address: Wilman And Son, 1, Market Place, Batley, WF17 5DA

Description: Listed Building Consent for alterations to convert
estate agent to restaurant/cafe (Class E) (within a
Conservation Area)

Recommending Officer: Callum Harrison

DECISION – LISTED BUILDING CONSENT GRANTED

**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: 05-May-2021

Officer Report

2021/90891 - Wilman And Son, 1, Market Place, Batley, WF17 5DA

Site Description

1 Market Place is a Grade II listed three-storey building dating to c1874 and constructed in stone with a well-detailed ashlar façade and a timber shop front. It is an end terraced unit within a terrace of 8 shops built on a curved and sloping site within a prominent location in the Batley Market Place Conservation Area. The side elevation is in coursed stonework and the rear faces a yard and parking area. The last use of the property was as an estate agent at the ground floor level.

Description of Proposal

The application is seeking permission for the Listed Building Consent for the alterations to convert estate agent to a restaurant/café (Listed Building within a Conservation Area). Previously, these uses were within the A2 and A3 classes. However, they both now fall within Class E of the revised Use Classes Order.

The application proposes alterations to the interior and exterior of the building. These works include stripping out finishes; the repair of the existing timber shop front; the replacement of the existing ground floor window with a smaller timber sash window; the insertion of a new rear door; the installation of a black flue from above the ground floor window to above eaves level; erection of a 1.8m high black metal railing; and, a bin store is proposed in the rear yard area.

History of Negotiations / Amendments Received

Given that the works are to a listed building, officers sought some more information on the proposed works and some minor amendments. The additional information was shown on amended plans received on 23rd April 2021.

Relevant Planning History

2000/93769 - Listed Building Consent for erection of 1 No Illuminated Fascia Sign and 1 No. Non-Illuminated Fascia Sign was approved.

95/90609 - Alterations to Shop Frontage was approved.

Representations

The application was advertised by neighbour notification letters, a site notice and in the press. Final publicity expired on 23rd April 2021. No representations were received.

Consultations

KC Conservation and Design – No objections, subject to a condition requiring all flue brackets to be fixed into mortar joints and not into the masonry.

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 allocated set out a secondary shop frontage within the Batley Town Centre, as allocated within the Kirklees Local Plan. The site is also a listed building set within the Batley Market Place Conservation Area.

The application site makes up part of a Grade II Listed Building. Listing Date 11-Feb-1993. Its listing description is as follows:

‘Row of 8 shops. c1875. Ashlar facades with slate roofs and 9 gable stacks. 3 storey. Built on a curved and sloping site with varied facades arranged A.A.B.B.B.C.D.C. with impost bands, upper floor cill bands and bracketed eaves, plus plain sashes throughout. 1,3. 1 has an original pilaster shop front with console brackets, 3 has a C20 shop-front. Above each facade has 2 pairs of segment headed sashes with above 2 single similar sashes. 2. 2 has an original C19 shopfront, and above 2 sashes to each floor, those on the first floor in round headed surrounds and those above segment headed with carved keystones. 4. 4 has an altered shopfront with above, a triple round headed sash with a larger central sash with prominent keystone and above 2 pairs of round headed sashes with gable heads. 6 & 7, 8. Each facade has an altered shopfront with central doorway between. Above a triple round headed sash with above 2 pairs of sashes with facaded heads, and above a round headed dormer. 9 & 10, 11 & 12. Each facade has an altered shopfront, though 11 & 12 has a pilaster surround with side door. Above a round headed triple sash, with larger central sash and carved capitals and band. Above a triple segment headed sash with elaborate central keystone. 9 & 10 has a gabled dormer window.’

Kirklees Local Plan (KLP):

LP35 – 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 16 – Conserving and enhancing the historic environment.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of Development
- 2) Impact on Character and Significance of Listed Building
- 3) Representations
- 4) Conclusion

1. Principle of Development

As the application is for Listed Building Consent, the only issues that fall to be considered are the impact the development would have on the character and significance of the Listed Building. Under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities must, in considering whether to grant listed building consent for any works 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. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 16 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. If harm would result this should not be allowed without a proportionate justification. This approach is supported by policy LP35 of the Kirklees Local Plan (KLP).

2. Impact on Character and Significance of Listed Building

By virtue as part of the application being a change of use, this itself will not materially impact the listed building or Conservation Area. The alterations to the interior and exterior of the building, including stripping out finishes and altering the shop front are minimal and include the removal of later partitions and minor alterations to areas of low significance and are, therefore, acceptable. The repair of the existing timber shop front is supported as this will improve the facade, with signage illuminated by grey swan neck light fittings fixed to the timber shop front and not into the masonry.

The rear elevation is only visible from Back Providence Street and has relatively low significance. Therefore, the proposed interventions to the rear elevation are acceptable. The harm caused by the installation of a flue is mitigated by finishing it in black and fixing it to the rear elevation, and the public benefits of repairing and refurbishing the shop front and bringing this vacant building into use is considered to outweigh this slight harm.

Subject to a condition requiring all flue brackets to be fixed into mortar joints and not into the masonry, the works proposed would not result in any harm to the listed building and, therefore, the proposal complies with LP35 of the KLP and Chapter 16 of the NPPF.

3. Representations

None.

4. 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: **Grant Listed Building Consent**

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 LP35 of the Kirklees Local Plan, and the aims of Chapter 16 of the National Planning Policy Framework.

3. Notwithstanding the plans hereby approved, all flue brackets shall be fixed into mortar joints and not into the masonry on the building.

Reason: To ensure the Listed Building is appropriately protected and not harmed by the development hereby approved, and as to accord with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Note: 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 specification table:

Plan Type	Reference	Version	Date Received
Location Plan	20163-D01-A	1	03/03/2021
Proposed Site / Block Layout	20163-D02-B	2	23/04/2021
Grouped Plans and Elevation	20163-D03-B	2	23/04/2021
Supp Info - General	20163-A Planning Statement	1	03/03/2021

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 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. Given that the works are to a listed building, officers sought some more information on the proposed works and some minor amendments. The additional information was shown on amended plans received on 23rd April 2021.