

**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:** 2021/62/91174/E

**Site Address:** 28, Commercial Street, Batley, WF17 5EY

**Description:** Alterations to convert first and second floor retail to 4 residential units

**Recommending Officer:** Callum Harrison

**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: 24-Jun-2021**

## **Officer Report**

2021/91174 - 28 Commercial Street, Batley WF17 5EY

## **Site Description**

The application relates to a three-storey, corner building in Batley Town Centre. A restaurant occupies the ground floor, whilst the first and second floors appear vacant, but are associated with the existing ground floor commercial premises. The building is primarily faced in red brick, with stone quoins and frames to the 12 windows spread across the first and second floors.

The town centre location means the area is mixed in terms of style, design and uses. Residential uses can be found, albeit they are mostly to upper floors. Retail, takeaways, restaurants, and other main town centre uses occupy most the ground floor units near to the application site.

## **Description of Proposal**

The application seeks permission for the conversion of the first and second floors to form 4no. one bed flats. There will be no external alterations. The flats would be accessed by an existing staircase. They would also mirror one another on the first and second floors. Two of the flats would have floorspaces of 49m<sup>2</sup>, whilst the other two would have floorspaces of 48m<sup>2</sup>.

## **History of Negotiations**

The application initially sought permission for a two-bedroom flat on the second floor amongst the three one-bed flats still proposed. This was considered insufficient in size to ensure a good standard of amenity for future occupiers. It was also below the required sizes set out in the technical housing standards. The agent amended the plans to propose 4no one bed flats, which are being considered in this report.

## **Relevant Planning History**

**2013/91413** – Change of use from former DIY retail to restaurant, takeaway and office space, single storey ground floor extension to rear and associated works - Approved.

## **Representations**

The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 18<sup>th</sup> May 2021. No representations were received.

## **Consultations Responses**

KC Highways Development Management – No objections.  
KC Environmental Health – No objections but requested a noise report.

## **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 set within the Batley Town Centre, as well as being set on a secondary shop frontage and within the primary shopping area, as allocated in the Kirklees Local Plan 2019 (KLP).

### Kirklees Local Plan:

LP1 – Achieving sustainable development  
LP2 – Place shaping  
LP13 – Town centre uses  
LP15 – Residential use in town centre  
LP21 – Highway safety  
LP22 – Parking  
LP24 – Design

### 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 7 – Ensuring the vitality of town centres  
Chapter 12 – Achieving well-designed places  
Chapter 15 – Conserving and enhancing the natural environment

## **Assessment**

### 1. Principle of Development

The application site is set within the Batley Town Centre, as well as on a secondary shop frontage and within the primary shopping area. The existing commercial ground floor use will not be impacted upon and, therefore, the proposal complies with policy LP13 of the KLP regarding town centre uses and Chapter 7 of the NPPF. Policy LP15 of the KLP states ‘residential proposals in these areas shall normally only be permitted on upper floors, and shall not prejudice existing established uses.’ Therefore, the provision of flats

above commercial units, that will be retained in full as existing, is also considered acceptable regarding the principle of development. Given that the principle of development is considered acceptable, the proposal will not be assessed against all other relevant and material planning consideration.

## 2. Impact on Visual Amenity

Policy LP24 of the KLP states that ‘proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape’.

The proposal does not seek any external alterations. Thus, the proposal is considered acceptable in terms of visual amenity.

## 3. Impact on Residential Amenity

Policy LP24 of the KLP states that proposals must ensure that *“extensions are subservient to the original building... and minimise impact on residential amenity of future and neighbouring occupiers”*.

The proposed development will not see the formation of any additional windows. Neither are there any windows, within a close distance, that directly face into the application site. Therefore, the privacy of both future occupiers and neighbouring sites would be preserved. There are no external alterations or additions, thus, this proposal is not considered as being overbearing or causing any overshadowing. The proposed flats have a floorspace above the minimum requirement set out in the technical housing standards, ensuring a suitable standard of amenity for future occupiers. Officers note there is no external amenity space. However, given the town centre location this is considered acceptable.

Officers consider that there may be a potential noise related issue arising from the formation of flats above a restaurant, so mitigation measures may be required. Given this, it is essential that a noise report is submitted. The submission of a noise report will be ensured through a pre-commencement condition. Subject to this condition, the proposal is considered to accord with policy LP24 regarding residential amenity.

## 4. Impact on Highway Safety

The site is within the recognised town centre of Batley. As such, whilst the parking provision is below standard, the site is considered in a sustainable location, in a recognised centre with good public transport links. On-street parking is available, and it is in easy reach of all amenities within the town centre. The increase in parking required for the apartments is likely to be offset, in part, by the reduction in size of the commercial floor space. The scheme is, therefore, acceptable from a highway safety perspective and it accords with policies LP21 and LP22 of the KLP.

## 5. Other Matters

### *Kirklees Housing Land Supply*

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 with 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 significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

## 6. Representations

None.

## 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.

As set out above, 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**

### **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 LP13, LP15, LP21, LP22 and LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. Before development commences a report specifying the measures to be taken to protect the development from noise from road traffic on Commercial Street, Batley and nearby commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- a) Determine the existing noise climate;
  - b) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development;
  - c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).
- The development 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:** This is a pre-commencement condition, which is necessary to ensure the future occupiers of the proposed flats benefit a good standard of amenity in the town centre location and to accord with LP24 of the Kirklees Local Plan.

**Note:** All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants <http://www.association-of-noiseconsultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

**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 Specifications table:**

| <b>Plan Type</b>             | <b>Reference</b> | <b>Version</b> | <b>Date Recieved</b> |
|------------------------------|------------------|----------------|----------------------|
| Grouped Plans and Elevations | Dwg 10 rev A     | 2              | 25/05/2021           |
| Design and Access Statement  |                  | 1              | 23/03/2021           |

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.

No amendments were sought for this application, given it is for a change of use. The application initially sought permission for a two-bedroom flat on the second floor amongst the three one-bed flats still proposed. This was considered insufficient in size to ensure a good standard of amenity for future occupiers. It was also below the required sizes set out in the technical housing standards. The agent amended the plans to propose 4no one-bed flats, which was considered acceptable.