

**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: 2021/62/91635/E

Site Address: The Music Room, St. John's Place, Cleckheaton,
BD19 3RQ

Description: Change of use of ground and first floors from Class E
(a) 'display or retail sale of goods' to Class E (b) 'sale
of food and drink for consumption on premises' / Sui
Generis, 'drinking establishment with expanded food
offer' and new external roof extract flues to rear
elevation

Recommending Officer: Lyle Robinson

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: 19-Aug-2021

Officer Report

Site Description

The site is that of an early 20th century former warehouse building in the town centre of Cleckheaton. The building appears to have been part of a former school group developed around the end of the 19th century but has been subject to a series of alterations and was most recently in use as a warehouse. Consent has previously been granted for the introduction of extensive areas of new glazing and the rendering of the elevations (2020/93195). Consequently, the original form of this modestly interesting building has been further significantly changed.

Description of Proposal

This is an application for full planning permission for the change of use of the ground and first floors from Class E (a) 'display or retail sale of goods' to Class E (b) 'sale of food and drink for consumption on premises' / Sui Generis, 'drinking establishment with expanded food offer'. New external roof extract flues to the rear elevation and a modified exterior spiral staircase are also proposed.

History of negotiations/amendments received

The plans assessed in this report are those originally submitted with the current application. No further details or amendments were sought thereafter.

Relevant Planning History

2020/93195 Conversion of second floor and loft of retail premises to Class E office (formerly Class B1a), erection of dormers, installation of replacement shopfront, door canopies, window openings, external fire escape staircase, roof lights, steel gantry and cladding *Approved 23/NOV/2020*

2020/91798 Change of use to second floor and loft to Class B1(a) office, erection of dormers, installation of replacement shopfront, door canopies, window openings, external fire escape staircase, roof lights, solar roof panels and cladding *Approved 10/SEP/2020*

2006/90618 CHANGE OF USE OF JOINERY WORKSHOP, OFFICES AND STORAGE TO MUSIC SHOP, OFFICES AND STORAGE *Approved 31/MAR/2006*

Representations

This application was publicised by neighbour letter, site notice and news advert, which expired on 29-Jun-2021. Following this publicity, no representations were received from neighbours or members of the public.

Consultation Responses

KC Environmental Health Service – No objection on environmental health grounds, subject to conditions regarding noise.
KC Conservation and Design – No objection.

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 unallocated in the Kirklees Local Plan.

Kirklees Local Plan:

LP01 – Achieving sustainable development

LP02 – Place shaping

LP21 – Highway safety and access

LP22 – Parking

LP24 – Design

LP35 – Historic Environment

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 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 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- Chapter 8 – Promoting healthy and safe communities
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- 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
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters

- 6) Representations
- 7) Summary/Planning Balance

1 – Principle of development:

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP), which stipulates that proposals that accord with policies in the KLP will be approved without delay unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

The application site is within a settlement boundary where development such as this is acceptable, subject to satisfactory assessment of material planning considerations.

2 –Impact on visual amenity and character of the area:

Policy LP24 of the KLP, consistent with chapter 12 of the NPPF, states, *inter alia*, that the form, scale, layout and details of all development should respect and enhance the character of the townscape.

Policy LP35 of the KLP, consistent with chapter 16 of the NPPF, states, *inter alia*, that development proposals, which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place will be permitted only where benefits of the development outweigh the harm, having regard to the scale of the harm and the significance of the heritage asset.

The proposal will have no detrimental indirect impact on any designated or non-designated heritage assets, including the setting of the nearby early 19th century Grade II listed warehouse and former textile building, located to the west of the Music Room (partially enclosing St. John's Place). The nearby listed building is detached and separated from the site by other commercial buildings of no historic interest. Thus, the proposed works will have no impact on its setting or the character and experience of the listed building. Consequently, the proposal would result in no harm to the components of the historic environment and would, thereby, accord with the requirements of the NPPF, paragraph 203, and KLP policy LP35.

Notwithstanding heritage considerations, the proposal would not introduce any design elements that would appear out of keeping or discordant with the

character of the building itself or that of the wider Cleckheaton town centre area.

The development, therefore, would be acceptable in terms of visual amenity and would accord with policies LP24 and LP35 of the KLP and chapters 12 and 16 of the NPPF.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan requires of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.

The surrounding uses are a mix of commercial, sui generis and residential uses. It is to be expected of a town centre location, such as this, that some noise would be experienced by residential uses outside of office hours. The existing use is already that of a commercial use and the proposed change of use has been assessed by Environmental Health in respect of noise concerns. To this end it is considered that, with the attachment of a condition limiting opening hours, the proposed development would not cause undue harm to residential amenity such that a refusal on these grounds would be justified.

In summary, therefore, the proposal would comply with policy LP24 in terms of residential amenity.

4 – Impact on highway safety:

The access to the site would not change. The site lies adjacent to a large public car park at St. John's Place and the proposed use is considered not to represent a further intensification such that additional parking spaces would be required to those already in proximity. In any case, the site is in a sustainable town centre location close to public transport facilities.

The development concerned is acceptable in terms of highway safety and parking and consistent with policies LP21 and LP22 of the KLP.

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 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.

The proposal is for the change of use of an existing commercial use to a different commercial use. For a minor application proposal such as this, which proposes no significant intensification of the use of the land, it is considered unnecessary to attach additional conditions to the Decision Notice over and above those recommended by Environmental Health, given the six tests of planning conditions as set out in National Planning Practice Guidance (NPPG).

6 – Representations:

None received.

7 – Summary/Planning Balance:

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 it is, therefore, recommended for approval.

Recommendation: Approval

Decision Authorisation – Delegated Powers

Application Number: 2021/91635

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 to ensure the satisfactory appearance of the development on completion, to preserve the significance of the Kirkburton Conservation Area and the grade II listed building, in accordance with Policies LP21, LP24 and LP35 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. Before food cooking commences details of a kitchen ventilation and extraction system shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide the following information:

- A risk assessment for odour, which considers amount and type of food that will be cooked, together with the proposed dispersion of odours and proximity of receptors likely to be affected by any cooking odours.
- Based on the risk assessment, details of the proposed methods of odour control and dispersion of any extracted odours.
- Details showing the proposed location of all the major components of the ventilation and extraction system.
- The noise mitigation measures that will be incorporated in the ventilation and extraction system, including details of the likely resulting noise levels that will be caused by operation of the system and, particularly, its levels of loudness at nearby noise sensitive locations.
- The proposed ongoing maintenance schedule that will be carried out to ensure that the ventilation and extraction system continues to effectively control odours and not cause excessive noise. Before food cooking commences the approved ventilation and extraction system shall be installed and, thereafter, it shall be retained and maintained in accordance with the approved details.

Reason: To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. Development shall not commence until a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas has been submitted to and approved in writing by the

Local Planning Authority. The scheme shall be implemented prior to first operation of the development and shall be retained throughout the lifetime of the development.

Reason: To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental well-being and to accord with Policy BE1(iv) and the NPPF.

5. Before first use a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:

- a) an assessment of all of the noise emissions from the proposed development
 - b) details of existing background and predicted future noise levels at the boundary of noise sensitive premises in the vicinity.
 - c) a written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation.
- The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. The use hereby permitted shall not be open to customers outside the hours of 07:30 to 23:00 Monday to Saturday, and 08:00 to 22:00 Sunday and Bank Holidays, and there shall be no deliveries to, or dispatches from the premises outside these hours. No deliveries shall take place on Sundays or Bank Holidays.

Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: Detailed advice is available in “Control of Odour and Noise from Commercial Kitchen Exhaust Systems” by EMAQ Sep 2018 which is an update of “Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems” by DEFRA 2005.

NOTE It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 22100 (ask for food safety) or by email at food.safety@kirklees.gov.uk.

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-noise-consultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

NOTE To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of: 07.30 and 18.30 hours, Mondays to Fridays, 08.00 and 13.00 hours, Saturdays, with no working Sundays or Public Holidays. In some cases, different site-specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and Specifications Schedule

Plan Type	Reference	Version	Date Received
Location Plan			21/APR/2021
Plans and Elevations as Proposed	2343/P06		21/APR/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.

As the submitted plans were considered acceptable, no changes were sought.

