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:	2021/62/91662/W
Site Address:	50, Market Street, Milnsbridge, Huddersfield, HD3 4HT
Description:	Change of use and alterations to derelict chip shop to form one dwelling and refurbishment of existing first floor flat (within a Conservation Area)
Recommending Officer:	William Simcock

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: 9th November 2021

Officer Report 2021/91662
50 Market Street, Milnsbridge

Site Description

The site consists of a two-storey stone building with a pitched roof situated directly behind 50 Market Street, and comprising the properties formerly known as 88 and 90 George Street. The former no. 88 (the right-hand unit) has a small display window at ground floor which has been infilled with a painted timber panel. In the middle of the frontage is a passageway leading through to the rear yard. The building has timber windows on its front elevation. To the south, on the opposite side of George Street, are traditional terraced houses, and adjacent to the east is a cleared site (the former Taylor Valve Works).

Description of Proposal

The proposal is for the change of use and alteration of the former chip shop to form a single dwelling and the refurbishment of the existing first-floor flat.

The ground floor flat would comprise a single bedroom and an open-plan living area, total floor area 40sqm. The bedroom would have a main window facing north and a secondary window formed in the existing west-facing doorway. The store that lies immediately to the north of the building and abuts it is to be demolished.

The first-floor flat would have a total internal area of about 64sqm and would have 2 bedrooms. All the principal windows, except for the bathroom, would face George Street.

History of negotiations/amendments received

01-Jul-2021: Applicant submitted site-specific flood risk assessment.

28-Oct-2021: Amended floorplans submitted.

Relevant Planning History

2018/94209 – Change of use of bank to form 2 retail units and formation of new entrance. Approved.

Representations

Final publicity date Expires: 04-Jun-2021 (publicity by site notice and press advertisement in addition to neighbour letter in accordance with the

requirements of the Development Management Procedure Order since the site is within a Conservation Area)

No representations received.

Consultation Responses

KC Environmental Health – Acceptable subject to conditions.

KC Planning Policy – No objection since it is outside Milnsbridge Local Centre

The Environment Agency – Were consulted but did not respond.

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 within the Milnsbridge Conservation Area on the Local Plan.

It is also in Environment Agency Flood Zone 2.

Local Plan:

LP 21: Highways and access
LP 22: Parking
LP 24: Design
LP 27: Flood risk
LP 35: Historic environment

Supplementary Planning Documents:

- KC Highways Design Guide 2019

The following SPDs were adopted on 29th June 2021 can be viewed on the council's website at https://www.kirklees.gov.uk/beta/planning-policy/adopted-supplementary-planning-documents.aspx:

- Housebuilders Design Guide Supplementary Planning Document,

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, 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 12 – Requiring good design
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

Assessment

The following matters are considered in the assessment below –

1) Principle of development
2) Impact on visual amenity (including any heritage considerations)
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g. trees/ecology (e.g. bats)
6) Representations
7) Conclusion

1 – Principle of development: The part of the site that would be directly affected by the proposed change of use, nos. 88 and 90, is just outside the boundary of Milnsbridge Town Centre. Policy LP15 therefore does not apply.

It is considered that the former chip shop does not amount to a "valued community facility" within the meaning of policy LP48 since there are several other hot food takeaways in the area.

The principles within the adopted Housebuilders' Design Guide SPD will be applied in so far as they are relevant although the SPD as a whole relates mainly to new build rather than changes of use or conversions:

Principle 2

New residential development proposals will be expected to respect and enhance the local character of the area by: Taking cues from the character of
the built and natural environment within the locality; Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details; Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.

Principle 6

Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.

Principle 14

The design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style

and materials. Innovation for energy efficiency is encouraged, particularly for maximising solar gain to allow for passive solar construction.

Principle 17
Outdoor amenity space that is functional and proportionate to the size of the dwelling.

2 –Impact on visual amenity: According to the design & access / heritage statement, the building is structurally sound and only in need of superficial repair and refurbishment. Replacement windows and doors are proposed but no new openings. The existing and proposed elevations indicate that the replacement ones would be similar in appearance.

The application form says that windows are to be replaced with UPVC and door with composite. As the building is of traditional appearance and the existing windows contribute positively to its character, the use of UPVC frames should be avoided. The architect has accepted that in principle painted timber can be used but would prefer not to have to install sash windows, which it appears the existing ones are. It may be possible to allow some flexibility on window design other than like-for-like replacement, but this can be the subject of a condition requiring details to be submitted.

It is considered that the proposals would not adversely affect the historic character of the building, and by ensuring that it is kept in an income-generating use, would in principle help to ensure its long-term conservation. Thus it is concluded that the scheme would accord with LP35 of the Local Plan, Chapter 16 of the NPPF. This also takes into account the Local Planning Authority's duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

3 – Impact on residential amenity:

Space, light, outlook and privacy:
The two dwellings both comply with the minimum floor space for a single- and two-storey dwelling set out in the Nationally Described Space Standards. Individual room sizes are also compliant.

Part 7.3 of the Housebuilders' Design Guide SPD sets out recommended separation distances for two-storey dwellings. The same principles can be applied at least in the case of the upper floor flat. The separation distance between its own south-facing windows and 45-47 George Street would be about 11m. The SPD recommends maintaining 21m between habitable room windows where these are at the rear of the site and the figure may be considered as a starting point for windows facing each other at the front.

However, the earlier permission, 2011/90822 for the redevelopment of the Taylor Valves site, which would have resulted in new residential development on the street frontage with a similar close relationship with 31-41 opposite at a time when the same minimum distance standards were in force (under the Unitary Development Plan Policy BE12). More generally in the central part of Milnsbridge, such close overlooking distances across the street are commonplace.

The bedroom window in the ground floor flat would face the nearest opposing wall at a distance of 6m and would be roughly 4.5m from the land boundary with the adjacent property. However, it would be immediately facing a single-storey not a two-storey structure, and the secondary window, as shown on the latest amended plans, would provide extra light. Outlook would be generally limited as it would face on to an enclosed courtyard, but this would be somewhat compensated for by the more open aspect for the living room to the front.

In summary it is considered that whilst some aspects of this proposal present a finely-balanced case, it would deliver an acceptable standard of living to the occupants of both flats whilst not detracting from those of existing residential properties, and would thereby accord with the aims of Policy LP24(b).

Noise
Environmental Health were consulted on the proposal and recommended that a noise survey be undertaken before development commences and any necessary attenuation measures incorporated into the development. The concerns raised specifically relate to noise emissions from commercial premises in the local area, not traffic noise. The flats would not directly face Market Street, and George Street does not carry high volumes of traffic, so it is considered that the impact of traffic noise would not be severe, but the next property on Market Street north of the application site is a hot food takeaway which has a extract flue in the rear yard, and the noise might affect both of the flats. The applicant's agent has requested that the condition be relaxed to allow some initial works to commence on site before the noise report is submitted; the case officer has considered this option but has concluded that realistically there is no way to avoid it being a pre-commencement condition. If works start before details have been submitted and approved for the condition, this would technically be a breach of condition, but if the works only consisted of stripping out, for example, this would not prejudice the effective implementation of noise measures and would therefore not be problematic in practice. However, any commencement of development before getting this condition discharged would be at the applicant's own risk.

A noise survey is therefore considered to be a reasonable requirement and should be conditioned in accordance with the aims of LP52 and NPPF Chapter 15.

4 – Impact on highway safety: Under Policy LP22, the accessibility of a development, the type of use, availability of public transport and local car

ownership levels should be considered in determining the correct level of car parking for a new development. The previous ground floor commercial use would have given rise to short-term but not long-term parking.

The site is highly accessible, being roughly 160m from the nearest bus stop with a frequent service into Huddersfield Town Centre, and is immediately adjacent to Milnsbridge District Centre which provides a range of shops and services including a large supermarket. There are waiting restrictions on George Street (double yellow lines near the junction and a permit holders' zone further along). It is considered that given the number and size of the units, and the accessibility of the location, future residents should be able to fulfil most of their daily and weekly needs without the use of a private car, and that in this instance no off-street parking need be provided as part of the development.

There is space in the shared yard area for the storage of bins off the highway.

It is therefore judged to be in accordance with the aims of Policies LP21-22.

5 – Other matters:

Biodiversity:
The site is in the bat alert layer. On the basis of an external viewing the building is unlikely to have bat roost potential and the development would not involve new build. The standard precautionary note will be added to the decision notice.

Flood risk:
Part of the site is in Flood Zone 2. Policy LP27 does not impose any special limitations on development within Flood Zone 2 that go beyond national policy. A site-specific flood risk assessment was submitted, which was deemed necessary because it would involve a change from a less to a more vulnerable use at ground floor. It does not however require a sequential test because it is a change of use.

The Zone 2 designation means that the site is deemed to be at risk of flooding less often than once in 100 years. Flood Risk Assessment found a higher level of flood risk for the site, and that the 1:30 flood could be over 1m deep. It is not clear why there is such a discrepancy between the consultant's findings and those of the Environment Agency and Kirklees Strategic Flood Risk Assessment. However, the case officer has informally consulted the Lead Local Flood Authority officer, who is of the view that whilst there are recent records of floods on Market Street, the EA and Kirklees flood maps should be regarded as being more authoritative and that the level of risk to future occupants is low and manageable. Even if the consultant's figures are correct, it is noted that the front entrance door to the property is significantly raised above highway level which would mitigate the depth of flooding.

It is considered that flood risk is not a factor that would indicate refusal in this instance but that there is a material risk to future occupants of the ground floor flat and that approval should be conditional on an evacuation plan and resilience measures being submitted for approval both of which are accepted in principle in the report and should be pre-commencement conditions.

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 instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. As the proposal is for the reuse of a building in a sustainable location with no new build, it is considered that the circumstances the applicant does not need to demonstrate further measures to combat climate change and the proposal is deemed to be in accordance with the aims set out above, and set out in NPPF Chapter 14.

6 – Representations:

No representations were made.

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.

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**

Decision Authorisation - Delegated Powers

Application Number: **2021/91662**

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 so as to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan and the Principles of the adopted Housebuilders Design Guide SPD.

3. Notwithstanding the details on the application form, the use of UPVC windows is not approved for the front elevation of the building. All new windows in the front elevation shall be timber. Design details of windows and of the new front door at a scale of 1:50 or larger shall be submitted to and approved in writing by the Local Planning Authority before any replacement of the existing windows or doors commences and the development shall be implemented in accordance with the approved details. All new windows shall be given a painted finish externally before either flat is first occupied.
Reason: To ensure that the development conserves and enhances the character and significance of the Milnsbridge Conservation Area and to accord with the aims of Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

4. Before construction work commences a report specifying the measures to be taken to protect the development from noise from nearby commercial premises on Market street and George Street 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: To ensure that future occupants do not suffer loss of amenity arising from undue levels of noise disturbance and to accord with the aims of Policy LP24(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. Before work commences on the conversion of the ground floor of the property to form a flat, details shall be submitted to and approved in writing by the Local Planning Authority of measures to improve the flood resilience of the ground floor accommodation and flood resistance and/or resilience measures for any basement. The approved measures shall be implemented before the ground floor flat is first brought into use and thereafter retained.
Reason: To ensure that the development has sufficient protection from the effects of flooding and to accord with the aims of the National Planning Policy Framework Chapter 14 and Policy LP27 of the Local Plan.

6. Notwithstanding the submitted details, the ground floor accommodation shall not be occupied until details of a flood evacuation plan has been submitted to and approved in writing by the Local Planning Authority. All future residents shall be provided with a copy of the flood evacuation plan and shall in addition be required to sign up for the Environment Agency's flood warning service.
Reason: To ensure the safety of future residents against flood risk and to accord with the aims of Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

NOTE: There is the potential for a bat roost to be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

NOTE: Noise assessments. 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-noiseconsultantsco.uk/
(020 8253 4518) or the Institute of Acoustics http://www.ioa.org.uk
(0300 999 9675) for a list of members.

NOTE: Construction noise. Noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays
08.00 to 13.00hours, Saturdays

With no noisy activities on Sundays or Public Holidays.

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 itis 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 schedule:-

Plan Type	Reference	Version	Date Received
Application form			22-Apr-2021
Location plan and existing elevations	A(00)-01		22-Apr-2021
Proposed ground floor plan	104		28-Oct-2021
Proposed first-floor plan option 1	101		01-Nov-2021
Proposed first-floor plan option 2	102		01-Nov-2021
Existing ground floor plan	103		28-Oct-2021
Existing first floor plan	100		28-Oct-2021
Flood risk assessment	GES 1502-21		01-Jul-2021
Design & access statement			27-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 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. The case officer undertook negotiations with the applicant to secure amended plans making design improvements in the interests of the amenity of future residents, the amended plans were judged acceptable and it was determined on that basis.

Report dated:

05-Nov-2021