Originator: William Simcock

Tel: 01484 221000

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 16-Sep-2021

Subject: Planning Application 2021/91823 Alterations to convert existing basement into two apartments (Listed Building within a Conservation Area) 132, Trinity Street, Huddersfield, HD1 4DT

APPLICANT
Z Uddin

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
04-May-2021	29-Jun-2021	

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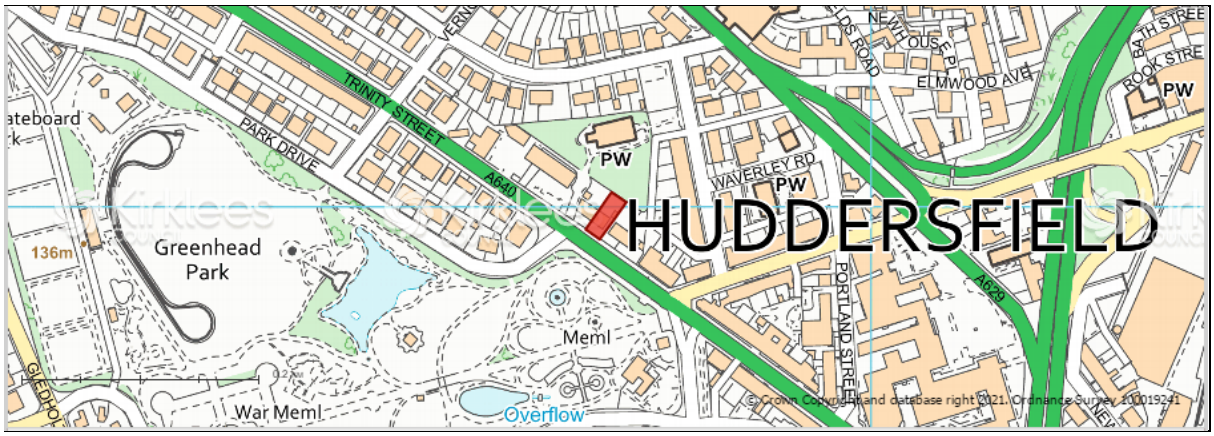
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: GREENHEAD

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: Refusal

Reasons for Refusal:

1. The habitable room windows within the proposed dwellings, especially the bedrooms and the front-facing living room, would, by reason of the relationship between the proposed windows and existing ground levels, experience severely restricted natural light and outlook. The proposed development would therefore fail to provide an adequate level of amenity to future occupants of the dwellings, contrary to the aims of the National Planning Policy Framework paragraphs 125(c) and 130 (f), and Policy LP24(b) of the Kirklees Local Plan.

2. The removal of the existing steps would harm the significance of the Listed Building. Whilst the degree of harm would be less than substantial, it has not been justified by a demonstrable public benefit as required by paragraphs 200 and 202 of the of the National Planning Policy Framework, since it is considered that the creation of two new apartments with severely substandard levels of amenity would not be a public benefit.

1.0 INTRODUCTION:

1.1 This application is brought before Huddersfield Planning Committee for determination under the terms of the Delegation Agreement following a request from Ward Councillor Mohan Sokhal. Cllr Sokhal's grounds for requesting a Committee decision are as follows:

> 'To enable members of the Sub Committee to consider whether the level of amenity, particularly daylight, will be adequate or future residents of the apartments.'

1.2 The Committee Chair has confirmed that Cllr Sokhal's request is valid having regard to the Committee Protocol.

2.0 SITE AND SURROUNDINGS:

2.1 132 Trinity Street is a substantial stone-built semi-detached dwelling (the right-hand half of a pair) of two storeys plus an attic and basement, built in stone with a blue slate roof, situated on the northern side of the highway opposite Greenhead Park. It has a small front yard and an extensive back garden. It is set in a residential area comprising dwellings of generally similar style and age.

3.0 PROPOSAL:

3.1 The proposal is for the conversion of the existing basement into two apartments.

3.2 Each would have a single bedroom and would have a total floor area of 55 and 46sqm respectively. The larger apartment would have an outlook to the front and rear only. The smaller apartment would also have side-facing windows in the bedroom and living room.

3.3 The external works would consist of:

- The formation of a new window and light-well to the front elevation on the left-hand side;
- The restoration of two infilled windows to the side elevation;
- The fitting of a new window in an existing opening to the rear on the right-hand side;
- A new rear entrance door to the rear below and to the right of the existing entrance door, at basement level;
- The formation of new external steps down to the basement to be constructed using the original steps up to ground floor;
- The formation of a steel staircase to ground floor from garden level in place of the existing stone steps.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2020/90213, 90214: Conversion of dwelling to create house of multiple occupancy (HMO). Approved, not implemented.

The permission applied to the ground and upper floors only. The basement was, on officers' advice, omitted from the final version of the scheme and left unconverted.

2020/93941-2: Planning Permission and Listed Building Consent for alterations to convert existing basement to two apartments (within a Conservation Area). Refused, no appeal.

2021/91824 - Listed Building Consent for alterations to convert existing basement to two apartments (within a Conservation Area) – Allied listed building consent, pending consideration/outcome of the decision on this application.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 None.

6.0 PLANNING POLICY:

6.1 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).

Kirklees Local Plan (2019):

6.2 The site is in Greenhead Park / New North Road Conservation Area on the Kirklees Local Plan. It is a Grade II Listed Building.

- **LP 1**: Presumption in favour of sustainable development
- **LP 7**: Efficient and effective use of land and buildings
- **LP 21**: Highway safety and access
- **LP 22**: Parking
- **LP 24**: Design
- **LP 35**: Heritage
- **LP 52**: Protection and improvement of environmental quality

6.3 Listing Description. TRINITY STREET 1. 5113 (North Side) Highfield Nos 128 to 134 (even) SE 1316 33/1304 II 2. Mid C19. Hammer dressed stone. Pitched slate roof. Coped gables. 2 storeys. Modillioned eaves cornice. Raised quoins. 3 sashes each in plain raised frames on 1st floor. One sash each in moulded frame with moulded cornice on ground floor. Canted ground floor bays with sashes, moulded surrounds and moulded cornice, to No 128 (one) and No 134 (two). Doors with panelled jambs, moulded transoms, semi-circular fanlight, moulded voussoirs and anthemion cresting.

6.4 As it is a conversion of an existing building it is considered it does not raise access or other Equality Act considerations.

6.3 Supplementary Planning Guidance / Documents:

- KC Highways Design Guide 2019
- Housebuilders Design Guide Supplementary Planning Document,

- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

6.4 National Planning Guidance:

National Planning Policy Framework

- Chapter 11 – Making efficient 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.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Final publicity date expired: 18-Jun-2021 (publicity by neighbour notification letter, site notice and press advertisement on the grounds of the development affecting a Listed Building and being within a Conservation Area).

7.2 No representations were made by members of the public

7.3 Ward Councillor comments (Ward Councillor Mohan Sokhal)

- Requests Sub-Committee decision (see Section 1 above)

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

There were no statutory consultees.

8.2 **Non-statutory:**

No consultations were deemed necessary for this planning application.

KC Conservation & Design were consulted on the accompanying Listed Building Consent and had no objection to the works to the listed building.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

10.1 The site is within Greenhead Park / New North Road Conservation Area on the UDP Proposals Map and is a Grade II Listed Building.

10.2 There is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities shall pay special attention to the desirability of preserving or enhancing the appearance of buildings or land within a Conservation Area.

10.3 Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:

> *"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."*

10.4 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).

10.5 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.

10.6 Paragraph 68 of the NPPF recognises that "small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should… support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".

10.7 Although the Local Planning Authority can demonstrate a five year land supply, it is noted that this development would be contribute to the housing supply in the district. However the provision of housing needs to be balanced against all policies and material planning considerations considered below

- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and appropriate housing densities to ensure that land is used efficiently.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type o development and the accessibility of the site.
- LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
- LP35 – The significance of heritage assets must be preserved or enhanced.
- LP52 – Potential pollution impacts must be considered at the planning stage.

10.8 Neither the Local Plan nor NPPF contain a policy specifically dealing with basement dwellings. NPPF Chapter 11 paragraph 118d, states that Local Planning Authorities should support the development of "under-utilised" land and buildings. In theory this could include large houses that are currently under-occupied, but as this is not an exceptionally large house, and already has permission for HMO use which is an intensification on the previous use, it is considered that no substantial weight can be placed on this paragraph.

10.9 Paragraph 125c says: "In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)."

10.10 Turning to NPPF Chapter 12, paragraph 130(e-f) states that planning decisions should ensure that developments should optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development, but also that they should create places that promote health and well-being with a high standard of amenity for existing and future users.

10.11 Any implications for highway safety and access will also be assessed having regard to the aims of Policies LP21-22.

Urban Design issues

10.12 The applicant proposes to extend the left-hand bay on the façade downwards at semi-basement level and insert a single window and a lightwell. Stone copings and a rendered or stone-faced retaining wall are proposed for the light wells. As this wall would only be visible from within the void and through the basement window this intervention is not considered to harm the significance of the listed building. In addition, the proposed wrought iron grill over the front lightwell is judged acceptable.

10.13 The new basement entrance to the rear would be accessed via the re-located stone staircase to the rear, with a steel staircase with Victorian detailing and a slender balustrade proposed to access the ground floor doorway. In addition, a rear light well would be created to the rear, with simple metal balustrades around both rear light wells which would reflect the Victorian character of the building. The windows are to be timber. The works would largely retain the character of the rear elevation.

10.14 However, it is still considered that the removal of the existing steps would harm the significance of the Listed Building. The degree of harm is considered to be very slight and would certainly amount to "less than substantial" harm. But even "less than substantial" harm must still be justified by a public benefit. In principle, bringing vacant floor space back into use can be a public benefit.

10.15 In this instance it is not considered to be a public benefit since it would not result in the formation of living accommodation that would provide an adequate standard of living for future occupants, for the reasons set out in detail in paragraphs 10.17-30 below "Residential amenity".

10.16 In conclusion, it is considered that whilst the development would not harm the character of the Conservation Area or visual amenity, it would cause harm to the significance of the Listed Building, a degree of harm which though less than substantial has not been justified by a demonstrable public benefit. It would therefore be contrary to the aims of Policy LP35 of the Local Plan and Chapter 16 of the NPPF.

Residential Amenity

10.17 As set out in paragraphs 10.9-10.10 above, the current version of the NPPF emphasises that the quality of life for future occupants of any proposed new dwelling is an important material consideration.

Privacy and overlooking:

10.18 The new or restored windows in the front and rear elevations would not be in a position to overlook other dwellings at close quarters and it is considered that there would be no adverse consequences for the privacy of either existing or future residents. The two side-facing windows would face towards the driveway and side wall of no. 130. This neighbouring property has two windows in its own facing side elevation but these are both obscurely glazed. The two new side-facing windows would only overlook the driveway of the neighbouring property. Whilst this arrangement would potentially result in compromised privacy for the occupants of the new dwelling, a condition requiring obscure glazing could be imposed in the event of officers being minded to approve since they are secondary windows.

10.19 To sum up, the proposed development would provide adequate levels of privacy for future and neighbouring occupants.

Compliance with nationally described space standards:

10.20 The amount of living space would be above the minimum required for a single-bedroom, single-storey dwelling in the Nationally Described Space Standards, which is 39sqm for a dwelling with one bed space, and 50 sqm for a dwelling with two bed spaces. The two flats would have an internal area of 55sqm and 46sqm respectively; this means the smaller flat would, under the standards, not be adequate for two occupants sharing the bedroom, but this would be difficult to control through the planning process. Individual bedrooms would also be compliant being in excess of the recommended minimum area of 7.5sqm for a single bedroom and 11sqm for a double bedroom, at 17sqm and 26sqm.

Availability of natural light and outlook:

10.21 However, a further factor that must be assessed is whether the dwellings would provide sufficient natural light and outlook for future occupants, since these are often poor for basement and semi-basement dwellings. Since the last application, which was refused on the basis that light and outlook would have been unacceptably poor, the following changes have been made in an attempt to ensure more light or a better outlook:

- In the larger apartment, the living room is now to be at the rear and the bedroom at the front;

- It is proposed that for the smaller apartment, the light-well at the rear is enlarged. (The front-facing light-well serving this apartment is existing).

10.22 The architect has also claimed in the supporting statement that by switching the rooms in the larger apartment around when compared to the refused application 2020/93941, there would be increased light entering the living room, which is deemed to be more important than the bedroom. The internal arrangement for the smaller apartment remains unchanged.

10.23 The adopted Local Plan policy LP24 places more emphasis on amenity for future residents of the proposed development than the comparable polices did in the now-superseded Unitary Development Plan (UDP). In particular, LP24(b) specifies they must "provide a high standard of amenity for future and neighbouring occupiers" This is also a requirement of the NPPF (Achieving well-designed places).

10.24 There have been, both under the now-superseded UDP and the current Local Plan, numerous examples of applications for basement dwellings being refused and not appealed. These include 2016/91491 (110 Longley Road), 2018/94184 (Central Avenue), 2018/90263 (42 Bradford Road), and 2019/91436 (1 Willow Lane).

10.25 Basement dwellings are however diverse in the amount of light and quality of outlook they provide, and each case must be assessed on its own merits. In the present example, the two front-facing windows (bedrooms) would be almost wholly below ground level, so that the line of sight for a person standing within one of the front-facing rooms would be at or near the level of the existing front garden. Light and outlook would consequently be very poor even with the new light-well. The outlook from the side-facing windows would also be poor (even assuming they were not obscurely-glazed) since they would face the wall of a two-storey building only 5.7m away and there is a risk that their light and outlook would be further obstructed by parked cars.

10.26 The outlook from the rear windows would be a little better, since they would face out on to an extensive garden and their lintel height would be above existing ground level. Outlook and light might be more limited for the living room window in the larger apartment than the smaller one, because the garden level is higher on that side, although the proposed new light-well would go some way towards improving the ability to receive light.

10.27 The architect's supporting statement suggests that planning decisions should place a higher priority on the availability of natural light and outlook to living rooms than bedrooms. There is no statutory basis for this view since both are classed as habitable rooms. If, however, this principle is to be accepted on the grounds that residents are likely to spend more of their waking hours in the living room than the bedroom, it is still considered that the light and outlook available for even for the rear-facing windows would be poor because internal floor level would be 800-1000mm below ground level in the garden.

10.28 In summary, the smaller apartment (the right-hand one as viewed from the front) might enjoy a slightly better standard of amenity than the larger one, in that both main rooms would have a secondary source of light from the east. However, even in the smaller apartment, floor levels in both rooms would be

set well below surrounding land levels, so that overall outlook and ability to receive natural light would both be below the level normally expected for a new dwelling. It is considered that the overall living environment for future occupants would be oppressive.

10.29 In very rare instances, the desirability of providing a new use for a Listed Building that would otherwise remain vacant or severely under-used may provide a justification for a development that would fail to accord with other planning policies. In this instance, the applicant has not sought to provide a justification for the development by reference to finding the optimum viable use for the Listed Building. It is unlikely that such a justification could be successfully demonstrated, as the proposed accommodation is judged to be severely substandard, and furthermore there is already a viable use (dwelling house as existing, or HMO as approved) for the ground and upper floors.

10.30 In conclusion, it is considered that the development would not provide an acceptable standard of living for future occupants and would thereby conflict with the aims of Policy LP24(b) of the Local Plan and paragraph 125(c) and 130(f) of the National Planning Policy Framework.

Highway issues

10.31 The driveway provides tandem parking (with space for up to three cars) but this is unlikely to be suitable for a building containing multiple dwellings because of the likelihood of cars being boxed in by a vehicle belonging to another occupant parked in front. However, it is unlikely that future occupants would have to be reliant on the use of a private car for most of their daily or weekly needs. The property is situated very close to Huddersfield Town Centre and benefits from a regular bus service. There are traffic regulation orders on the adjacent parts of Trinity Street.

10.32 Given the highly sustainable location, the lack of suitable parking is not a concern in this instance and it is considered that both the new dwellings and approved HMO would be able to function without giving rise to highway safety problems and would thereby accord with the aims of LP21-22.

Representations

10.33 Ward Councillor Sokhal's comments are noted and the issues raised have been thoroughly assessed in this report. No representations from other third parties were made.

Other Matters

10.34 *Noise:*
There is a risk that future occupants would be negatively affected by noise from road traffic. This would apply especially to the front-facing rooms. In the event of officers being minded to approve, any such problems could be alleviated by means of suitable noise attenuation measures, which would have to be demonstrated by a full noise assessment report. The aims of LP52 and NPPF Chapter 15 would thereby be fulfilled.

10.35 *Biodiversity:*
The site is in the bat alert layer but on the basis of an external viewing is unlikely to have bat roost potential, and in any case no roof or high-level alterations to the building that might affect bats are proposed. No bat survey work is considered necessary.

10.36 *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.

It is noted however that the site is appropriately situated for ensuring that future residents would be able to rely on means of transport other than the private car, and would create additional living accommodation within the envelope of an existing building. It is therefore considered that the development demonstrates acceptable levels of sustainability from the point of view of promoting carbon reduction. It must be emphasised that in officers' judgement this factor does not outweigh the residential amenity concerns outlined in 10.17-30 above.

11.0 CONCLUSION

11.1 It is considered that the proposed development would fail to provide an acceptable level of amenity for future occupants owing to severely limited natural light and outlook that would be available, in turn it would lead to less than substantial harm to the listed building, which is not outweighed by a demonstrated public benefit. The application is therefore recommended for refusal.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. It is therefore recommended that the application be refused.

12.0 Reasons for refusal:

1. The habitable room windows within the proposed dwellings, especially the bedrooms and the front-facing living room, would, by reason of the relationship between the proposed windows and existing ground levels, experience severely restricted natural light and outlook. The proposed development would therefore fail to provide an adequate level of amenity to future occupants of the dwellings, contrary to the aims of the National Planning Policy Framework paragraphs 125(c) and 130 (f), and Policy LP24(b) of the Kirklees Local Plan.

2. The removal of the existing steps would harm the significance of the Listed Building. Whilst the degree of harm would be less than substantial, it has not been justified by a demonstrable public benefit as required by paragraphs 200 and 202 of the of the National Planning Policy Framework, since it is considered that the creation of two new apartments with severely substandard levels of amenity would not be a public benefit.

Background Papers:

Application and history files.
https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91823

Certificate of Ownership A signed.