

**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:         | <b>2021/62/91916/E</b>                                                         |
| Site Address:         | Unit G5, Woodroyd Mills, South Parade, Cleckheaton,<br>BD19 3AF                |
| Description:          | Erection of canopy to entrance and change of use of<br>unit G4 to kitchen area |
| 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.**

Sarah Longbottom

***AUTHORISED OFFICER***

**Date: 07.12.22**

## **Officer Report**

### **Site Description**

The application site relates to the ground floor and outdoor seating area of units G5 and G4 within the former mill building known as Woodroyd Mills, in the settlement of Cleckheaton. The site is accessed on foot and vehicularly from the south, as well as an entrance from the north to the courtyard. The neighbouring units are either vacant or in commercial uses.



### **Description of Proposal**

This is an application for planning permission for material change of use from unit G4 to a kitchen area attached to the current taphouse/microbrewery use at unit G5. Planning history does not show a prior approved use for this northern part of the site so this application will serve as a belt and braces approach to ensure all parts of the taphouse/microbrewery site are in the correct use class. Operational development is also proposed in the form of a 7.5m by 3.5m open canopy area, with a 5.4m extending section running parallel to the existing beer cellar. The canopy, of some 2.5m max. height, would be associated with an outdoor seating area connected with the microbrewery/taphouse business.

The canopy part of the proposed development was built out and completed at the time of the case officer's visit.

### **History of negotiations/amendments received**

The plans as originally submitted are those referred to in the report and it is on this basis that the determination is made.

### **Relevant Planning History**

2017/94150 Change of use of joiners workshop to micro brewery and tap  
*Approved 08/MAY/2018*

Various previous history associated with other units of the Woodroyd Mills complex.

### **Representations**

This application was publicised according to statutory requirements. Neighbour letters were sent out with a deadline of 06-Dec-2022. Following the consultation period 1no. letter of representation was received. This raised the issues of parking and odours from the kitchen use. These matters are addressed below.

### **Consultation Responses**

*Coal Authority* – no objection

*KC Highways* – no objection

*KC Environmental Health* – no objection subject to condition regarding extraction detail

### **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 (KLP):**

- **LP 01** – Achieving sustainable development
- **LP 02** – Place shaping
- **LP 21** – Highway safety and access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 51** – Protection and improvement of local air quality
- **LP 52** – Protection and improvement of environmental quality

Highway Design Guide SPD (2019)

Kirklees Council has adopted supplementary planning guidance on highway design which carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding highway design and layout, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework.

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> 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

### **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) Conclusion/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). This policy 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 site is unallocated in the Kirklees Local Plan. The application site is located within a settlement boundary and development such as this is generally considered acceptable subject to the satisfactory taking into account of material considerations.

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

Policy LP24 of the Kirklees Local Plan, consistent with chapter 12 of the NPPF, states, inter alia, that the form, scale, layout and details of all development respects and enhances the character of the townscape.

Although of timber materials, which would somewhat clash with the surrounding red brick industrial materials palette, the proposed structure would be relatively lightweight and would preserve the façade of the building when viewed from within the courtyard.

Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes. The canopy would in its form, scale, layout represent a good design solution for this taphouse business within the courtyard, and would assimilate acceptably into the wider townscape of the industrial former mill buildings.

The development therefore would on balance be acceptable in terms of general visual amenity and would accord with policy LP24 of the KLP nor chapter 12 of the NPPF. This is without prejudice to an assessment of residential amenity under LP24c made below.

## 3 – Impact on residential amenity:

Policy LP24c of the Kirklees Local Plan require 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.

In terms of privacy and loss of light the site is located nearby nos. 70 and 72 South Parade. No. 72 to the south has some interface with the courtyard but no direct interface with the proposed canopy or outdoor seating area itself. There are no negative residential amenity implications from the canopy. The proposed material change of use would be associated with an existing commercial business.

Policy LP51 of the Kirklees Local Plan states that development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air pollution which would have an unacceptable impact on the natural and built environment or to people. Policy LP52 of the Kirklees Local Plan states, inter alia, that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals and other forms of pollution which cannot incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level to protect the quality of life and well-being of people or protect the environment will not be permitted. KC Environmental Health have requested the

submission of details of the installation and/or erection of any kitchen extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions of food that is to be prepared, or the hours of operation of the proposed development. This will ensure that the proposed kitchen use is acceptable to users of the business in terms of noise and odour as well as in respect of the wider environment.

All told therefore policy LP24 in terms of residential amenity and policies LP51 and LP52 in terms of air quality would be complied with subject to condition. As the condition relates to the kitchen area only it is not a condition precedent.

#### 4 – Impact on highway safety:

The proposal would see the installation of a canopy over an area that appears to already be used for outdoor seating for the previously used micro brewery and tap use. This would therefore not create any additional hindrance when accessing the rear of other units on Woodroyd Mills. The scheme does not raise any highway safety issues and is therefore acceptable to Highways DM officers.

The development therefore is considered to be 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 a kitchen unit and canopy associated with an existing use. On balance this is small scale enough to render further conditions attendant to the climate change agenda unnecessary in this instance, bearing in mind the six tests for planning conditions set out in National Planning Practice Guidance (NPPG).

#### 6 – Representations:

1no. letter of objection has been received from no. 70 South Parade on the basis of parking and odours from the kitchen use. The proposed parking

arrangements have been assessed by KC Highways DM and found to be acceptable. In terms of environmental protection a condition will be appended to the decision notice requiring further details to be submitted regarding extract ventilation in the interests of residential amenity.

## 7 – Conclusion/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 is, therefore, recommended for approval.

### **Recommendation: Approval**

#### **Decision Authorisation – Delegated Powers**

**Application Number:** 2021/91916

**Officer Recommendation:** Approve

#### **Conditions and Reasons**

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.

**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 Policies LP 21, LP22 and LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. Within three months of the date of this permission details of the installation and/or erection of any kitchen extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions shall be submitted to the Local Planning Authority.

**Reason:** Having regard to local residential amenity and air quality and to comply with policies LP24, LP51 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.

**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 226452.

**NOTE** Noisy construction related activities shall 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

**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 Specification**

| <b>Plan Type</b>                       | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|----------------------------------------|------------------|----------------|----------------------|
| Location Plan                          | /                |                | 18/JUN/2021          |
| Proposed Elevations and and Floor Plan | 21/131           |                | 18/JUN/2021          |
| Proposed Site Plan                     | 21/131           |                | 18/JUN/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 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. The application was considered to be acceptable in its originally submitted form.

