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:	**2021/62/92529/W**
Site Address:	Chic Hair Studio, 33, Blacker Road, Birkby, Huddersfield, HD1 5HU
Description:	Change of use of vacant dwelling to form 3 residential apartments (C3) on first and attic floors and dormer window to rear (within a Conservation Area)
Recommending Officer:	Ellie Worth

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.

John Holmes

AUTHORISED OFFICER

Date: 13th January 2022

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Officer report

Site description
33 Blacker Road, Birkby is a mid-terrace property constructed from stone with a tiled roof. At ground floor the building operates as a hair salon, with a residential use at first floor. To the rear is a small yard. At the time in which the site visit was undertaken there was no evidence of on site parking.

The site is situated within a mixed use area and is surrounded by commercial and residential properties. The building is also situated within Birkby Local Centre and Conservation Area on the Kirklees Local Plan.

Description of development
The applicant is seeking permission for the change of use of vacant dwelling to form 3 residential apartments on the first and attic floors, including the erection of a rear dormer. The measurements of the dormer are as follows:

Rear dormer:

- 3m in width
- 2.4m in height
- 2.6m in depth

Apartment 1:

This flat would be located at first floor and would have an internal floor space of approximately 37sq.m. The unit would include one bedroom, lounge, kitchen and toilet facilities.

Apartment 2:

This flat would be located at first floor and would have an internal floor space of approximately 37sq.m. The unit would include one bedroom, lounge, kitchen and toilet facilities.

Apartment 3:

This flat would be located within the attic (second floor) and would have an internal floor space of approximately 40 sq.m The unit would include an open plan kitchen and lounge, with one bed and toilet facilities.

History of negotiations/amendments received

Officers have requested additional information in the formation of a noise and odour report, which were received on the 13th August and the 1st September 2021. Discussions were also held regarding the applicants right of access to the rear yard.

Relevant Planning History

At the application site:
2000/90269 Alterations to shop front – Granted

Representations

The application has been advertised by site notice, neighbour notification letters and the press.

Final publicity expired: 21st August 2021.

As a result of the above publicity, one representation has been received. A summary of the concerns raised are as follows:

- There are problems within the street scene due to waste from commercial and residential properties.
- The yard of no. 33 will be overrun with waste and bins and this is not their land.
- We have no issue with how many flats they wish to construct but we are concerned with regards to waste.

Consultation Responses

KC Environmental Health: In support of the scheme subject to conditions being attached to the decision notice.

KC Highways DM: Consider the application acceptable on Highways grounds.

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 application site is situated within Birkby Conservation Area and Local Centre on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP7 – Efficient and Effective use of Land and Buildings
- LP11 – Housing Mix and Affordable Housing
- LP15 – Residential use in town centres
- LP20 – Sustainable transport
- LP21 – Highways and Access

- LP24 - Design
- LP35 – Heritage
- LP52 – Environmental Protection

Other:

- Highways Design Guide 2019
- House Builders Design Guide
- Kirklees Waste Management Design Guide for New Developments

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 11 – Making effective use of land
- Chapter 12 – Achieving well design places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Nationally Described Space Standards

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

1.Principle of development

Housing supply

Alongside the above, the proposal would also lead to the formation of three residential flats and therefore it is considered appropriate to consider the Councils housing land supply position.

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 5.17 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 boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Having taken into account general policies regarding the conversion of buildings, within the wider context, it has been considered that the principle can be supported, subject to an assessment against other material planning considerations below.

Furthermore, Policy LP1 of the KLP 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. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

The proposal would maintain a ground floor use as a shop, as such it is considered the development would not have a significant impact in terms of the town centre location of the site given the commercial use of the ground floor of the building would be maintained.

In this case, the works proposed will result in a material change of use from dwellinghouse to three residential flats within a sustainable location. As such, this proposal is welcomed.

The works would also remain predominantly internal, with the erection of a rear dormer. As such, the proposal is considered acceptable in principle subject to a full assessment against other material planning considerations which is detailed in the following report.

2. Impact on visual amenity & Heritage

Heritage

The site is located within Birkby Conservation Area. Therefore, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities to pay special attention in order to preserve or enhance the character and setting of land within a Conservation Area. This is reiterated in Policy LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment.

Paragraph 193 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset the

Local Planning Authority should give great weight to the heritage asset's conservation irrespective of the level of harm.

Furthermore, LP35 states "development proposals affecting a designated heritage asset…should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm". Whether harm exists, and whether it is substantial or less than substantial, is assessed in the report.

Alongside the above, Chapter 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

In this instance, it has been noted that the majority of the works consist of internal alterations with just the erection of a rear dormer and roof light. The rear dormer has been considered acceptable in terms of its size and scale as it would be centrally placed on the rear roof slope with a shallow dual pitch. Its materials consist of hanging tiles to match those that exist on the host property. This is to accord with Policies LP24 and LP35 of the KLP.

Officers have also noted that the surrounding buildings benefit from small rear dormers and therefore the works proposed would not appear incongruous or out of character within the wider street scene.

Bin storage has also been demonstrated within the small yard to the rear of the property. This has been considered acceptable, as it would not harm the visual amenity or character of the street scene.

Therefore, the proposed development would comply with the aims of Policies LP24(a) of the KLP, as it would not adversely affect the character of significance of Birkby Conservation Area. Instead, the development will help to generate long-term income for the building, which in turn would also help assist the buildings long term conservation. This is to accord with Policies LP35 of the KLP and Chapter 16 of the NPPF.

3. Impact on residential amenity

The National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

'Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary'.

With regards to residential amenity, the proposal seeks to covert the upper floors into three flats. As such, it can be said that the development is unlikely to significantly intensify the use given the size of the units to be provided. In addition, KC Environmental Health have also been formally consulted, raising no concern from a noise disturbance perspective.

The external alterations include the installation of a rear dormer window and roof lights. In this instance, the outlook would be onto Bay Hall Mills, a commercial building and therefore no concern regarding overlooking has been raised. The roof lights are also only likely to provide natural light into flat 3, rather than an outlook.

Amenity of future occupiers

Principle 17 of the Council's adopted House Builders Design Guide Supplementary Planning Document (SPD) requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accords with the 'Nationally Described Space Standards' document (March 2015).

With regards to the size of the units, when assessed against the nationally described standards, it has been noted that the three flats would have an acceptable amount of living accommodation. Windows would be provided to all habitable rooms, with flat 3 benefitting from an open plan in order to maximise the solar gain from the dormer window.

The proposal includes an area of bin storage, within a shared rear yard which would also provide an area of amenity space which could be utilised by the occupiers of the proposed apartments. As such the proposal is considered to be acceptable in terms of amenity space and waste storage arrangements.

However, in relation to noise and odour disturbance, Environmental Health Officers originally raised concern regarding the adjoining takeaways, both through the party walls and from customers arriving and leaving the premises late at night. As such, a noise and odour report have been requested.

In this case, having reviewed the aforementioned documents, Officers note that the odour report by Michael Bull and Associates Ltd (11 August 2021) indicates that there is the potential for odours from the extract vent connected to the food business at 35 to affect future occupants of the proposed development. Therefore, a condition requesting details of odour mitigation measures is recommended to be attached to any grant of permission which would need to be approved in writing before the flats are first brought into use.

With regards to noise report by KP Acoustics (dated 31 August 2021, ref 23201.NIA.01, initial concerns were raised by Environmental Health Officers

as the measures taken aren't considered to demonstrate the external/internal noise climate. As such, additional information/justification has been sought to include a floating floor at first floor and attic level. In terms of ground floor, the ceiling would be undrawn with 15mm firelined boards and at the same time additional 200mm rockwool insultation would be provided to assist the noise reduction between the existing retail unit and apartments. This has been considered acceptable from a noise perspective subject to condition to ensure this control of noise levels is secured.

To conclude, having taken into account the nature of the proposal (and subject to noise and odour conditions), it is considered that the future accommodation would offer a good standard of amenity in terms of access to natural light and floor space and as such would be acceptable in terms of residential amenity, and would comply with Local Plan Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. Impact on highway safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

KC Highways DM have been formally consulted as part of this application, as the applicant seeks permission to covert the upper floors into apartments.

In this case, it has been noted Blacker Road in which the building fronts, is a 30 mph two way single carriageway. There are 'No Waiting at Any Time' traffic regulation order (TRO) markings and limited parking bays opposite and on other local streets.

However, the site is within a sustainable local centre with shops and facilities close by and there are stops on a high frequency bus route within approximately 200m. Therefore, the scheme is considered to be supportable in the absence of no off street parking.

Waste, and collections of waste, are proposed from the rear yard off Filbert Street, which has been considered acceptable by the Highways Team, who also confirm they considered the scheme acceptable given the sustainable location of the site close to public transport links.

The proposal is therefore considered to accord with Policy LP20 and LP21 of the KLP, Housebuilders Design Guide, and the Highways Design Guide SPD.

5. Other matters

Bats

Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

The application site lies within the bat alert layer on the Councils GIS System. In this case, the roof appeared to be well sealed and therefore unlikely to contain any potential for roosting bats. Nonetheless, as a cautionary measure, a note will be added to the decision notice stating that if bats are found development shall cease and the advice of a licenced bat worker sought. This is to accord with the aims of Chapter 15 of the NPPF.

Climate change

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

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 predates 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 case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures. Nonetheless, it has been noted that the development would create additional units at the site, whereby each habitable room would benefit from an opening, in order to enhance passive solar gain.

6. Representations

As a result of the above publicity, one representation has been received. A summary of the concerns is copied as follows:

- There are problems within the street scene due to waste from commercial and residential properties.
- The yard of no. 33 will be overrun with waste and bins and this is not their land.
- We have no issue with how many flats they wish to construct but we are concerned with regards to waste.

The above concerns have been noted, however, the applicant has confirmed that they have a right of way to the rear of the application site. This has been considered sufficient for the purpose of this planning application.

In terms of the concerns over the disposal of waste, the scheme details bins to be stored to the rear of the site. Existing waste issues would need to be raised separately with the Council's Environmental Health Team to investigate and it is considered little weight can be afforded this matter as separate legislation is in place which can control issues relating to littering.

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: 2021/92529
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 in the interests of highway safety in accordance with Policies LP1, LP2, LP20, LP21, LP24, LP30, LP35 and LP52 of the Kirklees Local Plan, principles 12, 16, 17, 18 and 19 of the House Builders Supplementary Planning Document and the policies contained within Chapters 2, 11, 12, 15 and 16 of the National Planning Policy Framework.

3. The face and checks of the rear dormer hereby approved shall be externally finished in vertically hung tiles which shall in all respects match those used in the construction of the existing roof covering or dark grey cladding. The dormer shall thereafter be retained with this finish.
Reason: In the interests of visual amenity and heritage, to accord with Policies LP24 and LP35 of the Kirklees Local Plan and the policies contained within chapter 12 and 16 of the National Planning Policy Framework.

4. Before first occupation, the developer shall provide written evidence to the Local Planning Authority to demonstrate that the following sound levels have been achieved in apartments 1, 2 and 3 hereby approved:
a) The 16-hour LAeq shall not exceed 35dB between 0700 and 2300 hours when measured inside any noise sensitive rooms in the development.
b) The 8-hour LAeq shall not exceed 30dB between 2300 and 0700 hours when measured inside any bedroom in the development.
c) The 15-minute LAF1 shall not exceed 45 dB between 2300 and 0700hrs when measured inside any bedroom in the development.
If it cannot be demonstrated that the aforementioned sound levels have been achieved, a further scheme incorporating further measures to achieve those sound levels shall be submitted to and approved in writing by the Local Planning Authority. All works comprised within those further approved measures shall be completed and written evidence to demonstrate that the aforementioned sound levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use. The measures to achieve the sound levels detailed within this condition shall be thereafter retained for the lifetime of the development.
Reason: In the interests of the protection of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the policies contained within Chapter 12 of the National Planning Policy Framework.

5. Before the development is brought into use the developer shall provide written evidence to the Local Planning Authority to demonstrate that the airborne sound insulation performance of the party floor/ceiling and walls of the development is of a minimum of 55 dB Dntw + Ctr. If it cannot be demonstrated that the aforementioned airborne sound insulation performance has been achieved, a scheme incorporating further measures to achieve the sound insulation performance shall be submitted for the written approval of the Local Planning Authority. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned sound insulation performance level has been achieved shall be submitted to and approved in writing by the Local Planning Authority

before the development is first brought into use. The measures to achieve the sound levels detailed within this condition shall be thereafter retained for the lifetime of the development.
Reason: In the interests of the protection of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

6. Before the development is first brought into use, a scheme detailing odour mitigation measures which includes non-opening windows and mechanical ventilation, shall be submitted to and approved in writing by the Local Planning Authority. The odour mitigation measures shall be completed before the first occupation and shall thereafter be retained.
Reason: To ensure the future occupiers of the development are not adversely affected by sources of odour in the vicinity to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

NOTE: The type and number of bins required should be in accordance with guidance supplied by the Kirklees Cleansing Department in the document "Waste Storage and Collection Guidance for New Developments" which is available at https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx).

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 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.

NOTE: Due to its location, a bat roost may 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.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan	100	-	28th June 2021

Existing ground floor plan	101	-	28th June 2021
Existing first floor plan	102	-	28th June 2021
Existing attic floor plan	103	-	28th June 2021
Proposed ground floor plan	104	-	28th June 2021
Proposed first floor plan	105	-	28th June 2021
Proposed attic floor plan	106	-	28th June 2021
Existing site section	107	-	28th June 2021
Proposed site section	108	-	28th June 2021
Existing front elevation	109	-	28th June 2021
Existing rear elevation	110	-	28th June 2021
Proposed rear elevation	111	-	28th June 2021
Proposed front elevation	112	-	28th June 2021
Design and access statement	Dated 15th June 2021	-	28th June 2021
Heritage statement	Dated 15th June 2021	-	28th June 2021
Bin storage	113	-	28th June 2021
Odour report	Dated 11th August 2021	-	13th August 2021
Noise report	23201.NIA.01.Rev A	-	1st September 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. In this instance, Officers have requested additional information in the formation of a noise and odour report, which were received on the 13th August and the 1st September 2021. Discussions were also held regarding the applicants right of access to the rear yard.

Dated: 10th January 2022.