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:	**2021/62/94748/W**
Site Address:	Malaikas Grill Bar, 11, Cross Church Street, Huddersfield, HD1 2PY
Description:	Conversion and change of use of first and second floor of takeaway to two dwellings (within a Conservation Area)
Recommending Officer:	Katie Chew

DECISION - REFUSED

I hereby authorise the refusal 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: 14th September 2022

Officer Report

Site Description

Malaikas Grill Bar, 11 Cross Church Street, Huddersfield, HD1 2PY

The application site relates to a three-storey mid-terraced property located in the Huddersfield Town Centre. The building is constructed from stone and is designed with a hipped roof. The building currently serves as a takeaway. The building fronts onto Cross Church Street and provides a small yard area to the rear.

The site is Grade II Listed and is located within Huddersfield Town Centre Conservation Area, adjacent to a number of other Listed Buildings. The building also forms part of designated secondary shopping frontage.

Description of Proposal

The application seeks planning permission for the conversion and change of use of first and second floor of the takeaway to two dwellings (within a Conservation Area).

The dwellings are to be accessed to the rear of the building through an access door which is located adjacent to the property fronting on to Cross Church Street, with a passageway leading to a rear yard area in which the bins are to be stored. The apartments are to be provided over the first and second floors and shall provide 1 x 3 bedroomed flat and 1 x 2 bedroomed flat. Each flat will also contain a bathroom and kitchen/living area.

Externally alterations are to be made to include 3 new roof lights to the rear of the property, alongside 2 new windows within the rear elevation. The sash windows to the front are also to be restored.

Officer note: Officer's did raise the question with the applicant's agent as to whether they were intending to install secondary glazing within the windows. The agent said they would be happy for a condition to be attached requiring them to do so however officers believe this would not meet the tests for conditions as this would be down to the applicant to make this choice. Should windows need to be changed in the future the applicant will need to check what relevant permissions are required for those changes.

History of negotiations/amendments received

Further information was requested by highways officers in respect to waste management. A sectional drawing has also been requested to assess the ceiling heights of the proposed bedrooms. Finally, an amended floor plan has been provided removing reference to bedroom 3 in flat 1. Whilst numerous discussions have been undertaken between officers and the applicant's agent, taking into account the below assessment, it was agreed to move

forward with a recommendation of refusal, of which the decision can be tested at appeal if the applicant wishes.

Relevant Planning History

2022/90087 – Listed Building Consent for conversion and change of use of first and second floor takeaway to two dwellings (within a Conservation Area). Pending consideration.

2012/91559 – Use of part of the ground floor premises to operate two private hire vehicles with parking adjacent to 44 Bradford Road, Huddersfield (within a Conservation Area). Refused 28th August 2012.

2011/90193 – Change of use of first floor to operate two private hire vehicles and parking at Leeds Road premises (within a Conservation Area). Temporary conditions full permission 2nd June 2011.

2011/91742 – Use of first floor premises to operate taxi booking office (2 cars) and use of part of ground floor as customer waiting area for taxi office and car parking adjacent to 44 Bradford Road (Listed Building within a Conservation Area). Withdrawn 3rd November 2011.

2010/91987 – Change of use to include the operation of a taxi base (Listed Building within a Conservation Area). Invalid 18th November 2010.

2008/90759 – Listed Building Consent for erection of non-illuminated fascia sign (within a Conservation Area). Approved 7th May 2008.

2008/90760 – Erection of illuminated sign (Listed Building within a Conservation Area). Advertisement consent refused 29th April 2008.

2008/93298 – Use of premises to operate private hire business (within a Conservation Area). Refused 1st December 2008. Appeal dismissed 18th August 2009.

2007/94328 – Erection of 1 no. illuminated fascia sign (Listed Building within a Conservation Area). Refused 4th December 2007.

2007/94327 – Change of use from retail to hot food takeaway (Class A5) (Listed Building within a Conservation Area). Approved 5th December 2007.

2007/94789 – Listed Building Consent for erection of illuminated fascia sign. Refused 4th January 2008.

96/92063 – Listed Building Consent for demolition, alterations and internal alterations in materials to match existing (within Conservation Area). Approved 7th March 1997.

94/90917 – Erection of roller shutters and sun blinds (Listed Building). Approved 16th May 1994.

94/90918 – Listed Building Consent for erection of roller shutters and sun blinds. Approved 29th April 1994.

91/01586 – Listed Building Consent for erection of canopies and window grilles. Approved 5th July 1991.

91/01585 – Erection of canopies and window grilles (Listed Building). Approved 5th July 1991.

87/05592 – Erection of canopies and security grill (Listed Building within Conservation Area). Approved 22nd January 1988.

Planning Enforcement

COMP/08/0223 – Unauthorised shop front. Listed Building within a Conservation Area. Breach concluded to not be expedient.

Representations

Final publicity date expires:

Neighbour Letters – Expired 16th February 2022.

Site Notice – Expired 16th March 2022.

Press Notice – Expired 5th September 2022.

2 objections have been received to date; comments are summarised below.

- The property is within a Conservation Area and is Grade II Listed.

Officer note: Noted. The impact upon these heritage assets are discussed in more detail within the visual amenity section of this report.

- The proposed dwellings would be unsafe and against fire safety rules as the access to the flats is at the rear of the property with no separate fire exit.

Officer note: Noted, however this would fall outside of the planning remit and may need to be discussed during the building regulations stage. Should any amendments be required to meet building regulations then the applicant would need to submit a further planning application to allow for those amendments, but this would be outside of the current application.

- As the yard is to be used for commercial use there is little/no area for waste disposal and storage.

Officer note: Noted. This is discussed in more detail within the highway safety section of this report.

- Cross Church Street is a busy street for nightlife and also has a reputation for crime and disorder.

Officer note: Noted. Environmental Health Officers were consulted and have requested a number of conditions relating to noise, these can be found within the conditions section of this report.

- No. 11 has had a number of alterations to it despite no planning permissions being sought.

Officer note: Noted. This would fall outside of the remit of this current planning application.

- Access to the rear of the adjacent properties would compromise security should planning permission be granted.

Officer note: Noted. However, access is already available to the rear of the site and therefore this is deemed to have a minimal impact.

- Access to the rear of the property to gain access to the flats is by way of a passageway, this passageway has been used for deliveries since the properties were built and is shown on the deeds as a right of way for the adjacent property to be used as such.

Officer note: Noted. Unfortunately, this would be a legal and civil matter that would need to be resolved outside of this planning application should permission be granted.

Consultation Responses

The below is a summary of consultee response. Full responses can be viewed on the Council's Planning webpage.

Designing out Crime Officer – Comments received 26th April 2022. No comments.

KC Town Centres – Comments received 10th June 2022.

'The site is located within the Huddersfield Town Centre Conservation Area (CA36) and on a Secondary Shopping Frontage (SSF24 – 1 Cross Church Street to 31 Cross Church Street) within the Huddersfield Primary Shopping Area (PSA1) in Huddersfield Town Centre (TCB1) as designated in the Kirklees Local Plan, which was adopted on 27th February 2019. Advice is being sought on the Huddersfield Blueprint, however, the Local Plan Strategy and Policies should be fully considered and the following response relates to specific Local Plan policies which are of particular relevance to the proposal. Other policies that are not mentioned here may also apply

Kirklees Local Plan

Policy LP14 – Shopping Frontages

Within Principal and Town Centres, Primary Shopping Areas, Primary Shopping Frontages and Secondary Shopping Frontages have been defined to ensure a strong retail core to these centres and focus main town centres uses within defined areas. The designations will be used for the following purpose:

- ***Primary Shopping Area** - the retail core individually defined for each town centre. For District Centres this will be the full extent of the defined centre boundary, where retail uses and other main town centre uses are focused. Uses within Primary Shopping Areas will be expected to maintain or provide active ground floor uses. Retail uses within PSAs will be supported.*
- ***Secondary Frontages** - frontages within and adjacent to the Primary Shopping Area in Principal and Town Centres that are not designated as Primary Shopping Frontages. These frontages are characterised by a mix of retail and other 'main town centre uses'.*

  Within the Secondary Shopping Frontages as defined on the Town Centre Maps, at street level, proposals for retail and other main town centre uses will be acceptable provided they meet criteria a, taking into account criteria b and c.

Planning Policy have considered the proposal against Policy LP14 and are of the opinion that with the proposed development retaining the current ground floor use and its shopfront, it would not change the composition of uses along the frontage and therefore not harm the vitality and viability of Huddersfield Town Centre.

Policy LP15 – Residential use in town centres

This policy states that proposals for residential uses within the defined town centres will be supported subject to a range of criteria. With the residential development proposed for the upper floors and the existing use being retained on the ground floor, this proposal would fulfil criteria a and c of Policy LP15. With regards to criterion g, Policy LP11 sets a threshold at which affordable housing has to be provided in schemes of 10 dwellings or more or those of 0.4ha and this scheme does not meet the threshold so an affordable housing contribution is not required. Further guidance on criteria b, d-f and h can be provided by Conservation and Design, Environmental Health, Highways DM and Designing Out Crime.

Huddersfield Blueprint

The Huddersfield Blueprint can be considered as a material consideration for this application. This proposal can support Blueprint aspirations to increase Town Centre living by using a vacant upper floor in the Town Centre. Planning Policy are unaware of any potential conflicts between this proposal and the implementation of the Blueprint'.

KC Environmental Health – Comments received 26th January 2022. No objections but do require additional information to be submitted prior to the determination of the application, this includes an Air Quality Impact Assessment, Odour Impact Assessment and a Noise Assessment Report and Mitigation Scheme. Additional pre-commencement/pre-occupation conditions are also proposed which relate to sound insulation and ventilation.

Officer note: Whilst additional information was requested by ENVH prior to the determination of the application, this was not requested in this instance as the scheme was deemed to be unacceptable in principle.

KC Highways Development Management – Comments received 31st January 2022. No objections to the proposals in principle however no details are provided in respect to the storage and collection of wastes from the proposed apartments.

Officer note: Following the above response, the applicant's agent confirmed that the bins are to be taken to the front of the property at night where they are collected from the front of the shop. In the morning the bins are then transported back to the rear of the property. The service is to be paid for by the landlord and as the rooms are aimed at students their rent costs will cover bills, broadband and waste removal. Highways officers confirmed that this was acceptable and therefore raised no objections to the proposals.

Local Ward Members

N/A.

Parish/Town Council Comments

N/A.

Planning Policy Background

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 located within Huddersfield Town Centre, within a Primary Shopping Area and Secondary Shop Frontage. The site is also located within a Coal Referral Area, Grade II Listed and is located within Huddersfield Town Centre Conservation Area, adjacent to a number of other Listed Buildings.

Officer note: Whilst it is acknowledged that the site is within a Coal Referral Area given that the nature of the proposals are for a simple change of use it is not considered reasonable to request that a CMRA be submitted in this instance.

Kirklees Local Plan (LP):

- **LP1 – Presumption in Favour of Sustainable Development**
- **LP2 – Place Shaping**
- **LP7 – Efficient and Effective Use of Land and Buildings**
- **LP11 – Housing Mix and Affordable Housing**
- **LP14 – Shopping Frontages**
- **LP15 – Residential Use in Town Centres**
- **LP17 – Huddersfield Town Centre**
- **LP21 – Highway and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP35 – Historic Environment**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP53 – Contaminated and Unstable Land**

Huddersfield Town Centre Blueprint SPD:

Huddersfield Town Centre Blueprint SPD was adopted 24th June 2020 however, following a legal challenge the Council has revoked the adoption of the blueprint on 27th October 2020. The Council will continue to promote the Huddersfield Blueprint as the Council's vision for the town centre.

Within Kingsgate and King Street there will be a focus on making access for pedestrians and cyclists easier, with hopes to also improve the public realm so that it is high quality and uncluttered.

Housebuilders Design Guide SPD (adopted 2021)

National Polices and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land

- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 16 – Conserving and enhancing the historic environment

Other Considerations

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- Kirklees Waste Management Design Guide for New Developments

Summary of Principal Planning Issues

The following matters are considered in the assessment below -

1) Principle of development
1) Visual amenity (including impact upon historic environment)
2) Residential amenity
3) Impact on highway safety
4) Other matters
5) Conclusion

1 – Principle of Development:

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The site is not displayed as allocated on the KLP Policies Map. Policy LP2 states that:

> *"All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below..."*

The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

The housing land supply position has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The Council can currently demonstrate 5.17 years of deliverable

housing land supply and therefore continues to operate under a plan-led system.

Chapter 7 of the NPPF relates to ensuring the vitality of town centres and states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption. Paragraph 86 states that it should be recognised that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

Policy LP13 of the Kirklees Local Plan relates to town centre uses and sets out that within Kirklees, main town centre uses shall be located within defined centres. These consist of principal town centres, town centres, district centres and local centres. This Policy outlines that proposals that have a significant adverse impact on the vitality and viability of a centre, or compromise the role and function of a centre will not be supported. This Policy goes on to note that main town centre uses which are appropriate in scale, help to retain an existing centre's market share, and enhance the experience of those visiting the centre and the businesses which operate in that centre will be supported.

Policy LP17 of the Kirklees Local Plan states that Huddersfield Town Centre will be the principal focus for high quality comparison retail goods within the district, supported by a range of leisure, tourism, office (including high quality grade A office space), and other main town centres uses. Huddersfield town centre will also provide high quality educational facilities and opportunities for town centre living.

Policy LP14 of the Kirklees Local Plan relates to shopping frontages, and No.14-18 has a Primary Shopping Frontage along Kings Street, and the site is within a Primary Shopping Area. Policy LP14 states that the Primary Shopping Area is the retail core for each town centre and uses within such areas will be ‘expected to maintain or provide active ground floor uses’ and that retail uses within such area will be supported. In relation to Primary Shopping Frontages, Policy LP14 states that these are frontages that contain predominantly retail uses and where further retail uses will be focussed. Policy LP14 goes on to note that within Primary Shopping Frontages, proposals should seek to continue retail uses in order to retain vitality and viability within the Centre and the strong retail core, and that retail will remain the predominant use of each primary shopping frontage.

Policy LP15 of the Kirklees Local Plan relates to residential uses within town centres and sets out that such uses will be supported subject to:

a. the protection of primary shopping areas, primary and secondary shopping frontages, and space for other main town centre uses within the defined centre. Residential proposals in these areas shall normally only be permitted on upper floors, and shall not prejudice existing established uses;

b. the protection of the character of the centre, and the local street scene. Proposals should retain and enhance the design and heritage features of buildings;
c. the protection and retention of existing ground floor uses and active frontages both within and outside the primary shopping area,
d. the protection of the amenity of existing residents and future occupiers of the proposed residential use in accordance with amenity and design policies within the plan, and will in particular consider matters such as privacy, noise and air quality;
e. the provision of space for the storage of sustainable modes of transport such as bicycles, where appropriate charging points of electric vehicles, and access to public transport;
f. the provision of space for vehicular parking which is appropriate to the scale of the proposal, particularly where it would otherwise cause highway and pedestrian safety concerns;
g. provision of affordable housing in accordance with policies set out in the Local Plan; and
h. the provision of refuse storage and collection.

In respect to the proposed dwellings, the site is within a sustainable location within Huddersfield town centre and close to public transport links. The site is within a primary shopping area and secondary shop frontage area. The building at ground floor level is currently operated by Malaikas Grill Bar with storage and a seating area provided at first and second floor level. The proposed development would provide 2 units of residential accommodation on the first and second floors of the building, thus utilising an existing brownfield site, and not result in the loss of a town centre use at ground floor along this secondary shopping frontage. Of note, and as alluded to above it is stated within the NPPF that residential development can play an important role in ensuring the vitality of centres. Given the above, it is considered that the proposal would not detrimentally impact upon the vitality and viability of Huddersfield Town Centre, or its role and function. The proposal is therefore considered to be in accordance with Policies LP13, LP14, LP15 a and c and LP17 of the Kirklees Local Plan and Chapter 7 of the NPPF.

Thus, the principle of the proposed change of use could be acceptable, but the principle of the change of use will be subject to other considerations which shall be discussed below, including points b and d-h of Policy LP15 of the Kirklees Local Plan.

2 – Impact on Visual Amenity (including Impact upon Historic Environment):

Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, LP35 states that: *"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."*

The harm, should any be considered to accrue from this development, will be assessed and discussed later in this report.

In addition, the NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 126 provides a principal consideration concerning design which states:

"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

"a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape…"

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *"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 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

Regarding visual amenity and the impact on the Conservation Area and the setting and significance of the Grade II Listed Building, the majority of the works are to consist of internal alterations and as such would have minimal, if any impact on the significance of the Conservation Area. Notwithstanding the above, the current building is in need of some refurbishment and the proposals may actually help to enhance the appearance of the building and the character and appearance of the area given its prominent location in Huddersfield Town Centre.

In respect to harm to the Listed Building itself, the Council's Conservation Officer was consulted on the proposals via the tandem Listed Building Consent application ref. 2022/90087, with the Officer content that the internal works would not cause harm to the significance of the listed building. To the rear, the rear extension appears to have been constructed in the early 20th Century and its significance is low, therefore the insertion of two new window openings and a replacement ground floor door are considered to cause no harm to the significance of the listed building and these alterations are therefore acceptable.

Officers do note that the timber door on the front elevation which leads into the rear yard should be retained should permission be granted.

Finally, the application indicates that the front sash windows will be restored and upgraded to ensure that they function correctly. The Conservation Officer welcomes these changes. However, if secondary glazing is proposed, no damage should be caused to the existing windows and the secondary glazing window frames should line up with the sash windows. Details would need to be submitted to the Council for approval and this could be conditioned

For the reasons outlined above, the proposed alterations are considered to not harm the visual amenity of the area or indeed the setting and significance of the Huddersfield Town Centre Conservation Area or Grade II Listed Buildings. The proposals are therefore considered to accord with Policies LP15 (b), LP24(a) and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the National Planning Policy Framework and guidance contained within the Council's Housebuilders Design Guide SPD.

3 – Impact on Residential Amenity

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring they 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

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

As noted above, Policy LP15(d) sets out that proposals for residential uses in town centres should protect the amenity of existing residents and future occupiers of the proposed residential use, and will in particular consider matters such as privacy, noise and air quality.

Paragraph 185 of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on living conditions. Paragraph 187 of the NPPF states that planning decisions should: *"ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."*

With regards to residential amenity, the proposal seeks to convert the existing storage and seating area relating to Malaikas Grill Bar into 1 three bedroomed flat and 1 two bedroomed flat. Given the nature of the rear of the building there are no concerns in respect to loss of privacy or overlooking. No extensions are proposed

The Council's Environmental Health Officer raised no concerns in respect to the development significantly intensifying the use and unduly impacting existing neighbouring properties. Of note, the flats are to utilise existing openings to the front elevation, with new rooflights, windows and a door proposed to the rear.

Amenity of future occupiers

Consideration must also be given to the amenity of future residents of the proposed dwellings.

In this instance no changes are proposed to the existing outdoor yard area however it is noted that this area is small in size and is not useable for recreation. This area will be for the storage and management of waste for both Malaikas Grill and any future occupiers of the proposed flats. Officers therefore consider this existing yard area unsuitable as private outdoor amenity space for future residents, and furthermore there would be potential noise and disturbance with the movement of commercial bins into and out of this yard area.

Principle 16 of the Housebuilders Design Guide (even though this application does not seek to 'build' dwellings it is a useful marker against which to assess residential amenity) seeks to ensure the floorspace of dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers. These are not enshrined in a Policy of the Local Plan but, taking into account LP24, they do provide a basis against which to assess 'residential amenity'.

With regards to the size of the proposed units, when assessed against the nationally described space standards – which states that the minimum gross internal floor area for a one storey two bedroomed flat should be 61sqm, and for a one storey three bedroomed flat the internal floor area should be 74sqm.

Flat 1 (2 bedroom) measures approximately 60.79sqm and Flat 2 (3 bedroom) measures approximately 61.86sqm. It is therefore considered that both units would fail to provide a good standard of amenity for future occupiers contrary to Policy LP24 and LP15d of the Local Plan.

The minimum floor to ceiling height set out in the technical standards requires it to be 2.3m for at least 75% of the gross internal area. This part of the standards would only be relevant to Flat 2 in this instance as Flat 1 is located on the first floor where the required floor to ceiling heights would be met. From looking at the proposed ceiling heights within Flat 2 to meet the required standards, at least 46.395sqm of the proposed 61.86sqm would need to have a floor to ceiling height of 2.3m+. in this instance the flat would provide approximately 50.10sqm. Nonetheless, when considering that part of the flat, would have a low ceiling height and that this apartment would already have a floor area significantly below the minimum standard for 3 bedroom dwellings outlined in the NDSS, Officers do not consider that this would provide a good standard of amenity for the proposed occupiers of Flat 2, again contrary to Policy LP24 and LP15d.

In terms of bedroom size, the technical guidance recommends that in order to provide one bedspace, a single bedroom must have a floor area of at least 7.5sqm and be at least 2.15m wide, where two or more bedspaces are to be provided the dwelling must have at least one double (or twin) bedroom, one double (or twin) bedroom must be at least 2.75m wide and have a floor area of at least 11.5sqm. With regards to Flat 1, bedroom 1 has a floor area of 10.54sqm and is 2.9m wide. Bedroom 2 has a floor area of 10.69sqm and is 3.1m wide. Within Flat 2, bedroom 1 has a floor area of 10.71sqm and width of 2.9m. Bedroom 2 has a floor area of 10.82sqm and is 3.2sqm wide. Bedroom 3 has a floor area of 9.1sqm (taking into account the area of the room which is subject to being 1.5m in height) and is 2.6m wide. Taking the above into consideration, not all of the proposed bedrooms are considered to comply with the technical requirements, and this further diminishes the standard of amenity that future occupiers would have.

Thus, by virtue of the limited internal floor area of both flats as well as the bedrooms within them (exacerbated by a low ceiling height in Flat 2), the proposal would fail to provide a good standard of amenity for future occupiers.

In terms of accessing natural light, all bedrooms and habitable rooms within Flat 1 have access to at least 1 window. Within Flat 2, bedrooms 1 and 2 also have access to at least 1 window. However, within the proposed kitchen/dining area and bedroom 3 of flat 2, there is only access to roof lights which would provide natural light into the rooms but would provide a limited outlook for any future occupiers.

Chapter 8 of the NPPF at paragraph 92, part b) highlights that planning decisions should aim to achieve healthy, inclusive, safe places which are accessible and where the fear of crime does not undermine the quality of life or community cohesion. The application site is located on Cross Church Street within Huddersfield Town Centre, on this street there are significant incidences of late-night crime and anti-social behaviour due to the high concentration of licensed premises. There are also a number of late-night food and drink uses. In the context of the area, future occupiers of these dwellings would need to access their properties through an unlit passageway to the side of the building, into a small yard area to the rear which is also used for the storage of commercial bins. As a consequence, Officers consider such an arrangement would fail to provide a good standard of amenity for future occupants of the property as required by Chapters 8 and 12 of the National Planning Policy and Policy LP24b and this further diminishes the standard of amenity given what has already been noted above in relation to a poor standard of internal amenity space.

The proposed development is situated in the town centre and will introduce new receptors into a noisy environment including traffic noise, pedestrian/customer noise and noise associated with the business below and from nearby businesses (including noise from refrigeration and ventilation systems, music and customers using external seating areas to nearby businesses). Environmental Health have requested that additional information be submitted prior to a decision being made on the application, they have requested the submission of an Air Quality Impact Assess and Noise Assessment Report. Whilst it is crucial to ensure that an acceptable level of noise can be achieved, even with mitigation measures, where necessary, officers did not request the submission of this information prior to the determination of the application as the proposals are considered to be wholly unacceptable upon submission in this instance.

Environmental Health have also requested that should the windows need to be kept closed to achieve acceptable levels of noise internally then details of ventilation to these rooms should be provided. However, given the concerns raised by officers in respect to the limited size and outlook from the flats, and that there are issues relating to the fear of crime in this location, it is considered that a ventilation scheme whereby windows cannot be opened due to noise and poor air quality would further diminish the standard of

amenity for future residents, adding to the overall oppressive nature of the scheme as submitted.

Environmental Health officers also noted that there are numerous other sources of odours in the location that may impact the amenity of new receptors of the proposed development, for this reason they also requested additional information be submitted in the form of an odour assessment prior to a decision being made on the application. Again, as discussed above, the proposals were deemed to be wholly unacceptable and therefore this information has not been requested by officers.

The evidence required by Environmental Health to ensure a good standard of amenity for residents – in terms of noise mitigation, odour control and ventilation – would likely result in alterations to the building that would 'seal' residents into their apartments. There would be a requirement not to open windows – which has implications for the listed status of the building as the existing sash windows would fail to provide adequate noise mitigation and in terms of odour control there are rooflights within very close proximity to a large extract ventilation system serving the food and drink use on the ground floor. Future residents, in this regard would have a poor standard of amenity contrary to Policy LP24b and LP15d of the Local Plan.

In this instance officers have noted that the internal floor space of Flats 1 and 2 would fall to provide a good standard of amenity for future occupiers. The development would also only provide outlook and natural light from rooflights in bedroom 3 and the kitchen/living area of flat 2. The location of the accommodation It is also noted that there are significant incidences of late-night crime and anti-social behaviour due to the high concentration of licensed premises on Cross Church Street. There are also a number of late-night food and drink uses. As a consequence, Officers consider such an arrangement would fail to provide a good standard of amenity for future occupants of the property as required by Chapters 8, 12 and 15 of the National Planning Policy, LP24 of the Kirklees Local Plan, and this further diminishes the standard of amenity given what has already been noted above in relation to a poor standard of internal amenity space.

4 – Impact on Highway Safety:

Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy LP24d states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development.

Given the application sites town centre location, highways officers raised no objections in principle to the proposals, i.e. this being a car free development. Whilst concerns were initially raised about the storage and collection of wastes from the proposed apartments the applicant's agent confirmed that the bins would be taken to the front of the property at night and returned to the back again in the morning after collection. This service is to be paid for from the landlord. Highway officers were happy with this arrangement and sought to impose no conditions.

For the aforementioned reasons it is concluded that the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22and LP24 of the Kirklees Local Plan and Chapter 9 within the National Planning Policy Framework.

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 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.

The proposal is for a small-scale development to an existing building. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

There are no other matters for consideration.

6 – 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 proposed development would not constitute sustainable development and is therefore recommended for refusal.

Recommendation: Refuse

Decision Authorisation - Delegated Powers

Application Number: 2021/94748

Officer Recommendation: Refuse.

Reasons:

1.The proposed development, would result in future occupants suffering from a poor living environment and standard of amenity due to the size (internal floorspace) of the proposed flats and outlook from accommodation on the second floor. Furthermore, given the high concentration of late-night food and drink uses located on Cross Church Street this would result in future occupiers suffering from a poor living environment and standard of amenity in order to mitigate against external sources of noise, odour and poor air quality. The development would therefore be contrary to Policies LP15d, LP24b and LP52 of the Kirklees Local Plan and Policies within Chapters 12 and 15 of the National Planning Policy Framework.

2. The proposed development is within an area where there has historically been incidences of late night crime and anti-social behaviour due to the high concentration of licensed premises on Cross Church Street. This would likely result in any occupants of the proposed flats and their visitors having a fear of crime and disorder. This would be exacerbated by the proposed entrance to the flats along a narrow passageway to the side of the building. Therefore, the development would be contrary to the aims of Chapters 8, 12 of the National Planning Policy Framework, and Policies LP15d and LP24e of the Kirklees Local Plan.

Plans and specifications schedule:-

Plan Type	**Reference**	**Web ID**	**Date Received**
Site & Location Plan	UD-458-01	-	4th January 2022
Existing Level 0, 1 and 2	UD-458-02	-	4th January 2022
Proposed Level 0 and Basement (floor plans and section)	UD	A	1st February 2022
Heritage Statement – Supporting Information	-	0	11th January 2022

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 have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with

the applicant in dealing with the application. Further information was requested by highways officers in respect to waste management. A section drawing has also been requested to assess the ceiling heights of the proposed bedrooms. Finally, an amended floor plan has been provided removing reference to bedroom 3 in flat 1. Whilst numerous discussions have been undertaken between officers and the applicant's agent, taking into account the above assessment it was agreed to move forward with a recommendation of refusal, of which the decision will be tested at appeal.

Report Dated:

12/09/2022