KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) – SECTION 16

DELEGATED DECISION TO DETERMINE APPLICATIONS FOR LISTED BUILDING CONSENT

Reference No:	**2022/65/90087/W**
Site Address:	Malaikas Grill Bar, 11, Cross Church Street, Huddersfield, HD1 2PY
Description:	Listed Building consent for internal and external works (within a Conservation Area).
Recommending Officer:	Katie Chew

DECISION – Grant Listed Building Consent

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Teresa Harlow

AUTHORISED OFFICER

Date: 14-Sep-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.

Description of Proposal

The application seeks Listed Building Consent for internal and external works (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, the passageway will lead 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, 3 bedroomed flat and 1 2 bedroomed flat. Each flat will also contain a shared bathroom and kitchen/living area. The change of use itself does not require listed building consent, but the internal works proposed to reconfigure the building do.

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 application also indicates that the front sash windows will be restored and upgraded to ensure that they function correctly.

History of negotiations/amendments received

Additional details have been requested from the Conservation & Design Officer in respect to the internal and external alterations proposed. A section drawing was also requested and an amended floor plan to remove any reference to bedroom 3 in flat 1.

Although amended and additional plans were received it was not considered necessary to reconsult as these did not materially alter the scheme.

Relevant Planning History

2021/94748 – Conversion and change of use of first and second floor of 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:

Site Notice – Expired 5th September 2022.

Press Notice – Expired 18th February 2022.

6 representations have been received in objection; comments are summarised below.

- There appear to be no heritage issues of contention however, the proposal appears to deliver extremely limited accommodation. The 1st floor is stated as a 2 bed yet shows a third bed over the bulkhead of the stairs. Bedrooms are approximately 10-12sqm. The kitchen shows accommodation for only 2 people.

Officer note: Noted. Accommodation size is assessed in more detail within the residential amenity section of tandem report 2021/94748. This is not a consideration for a listed building application

- The accommodation is over a takeaway so must carry a higher risk than normal of fire. The only exit door opens into a narrow yard with no exit other than by re-entering the building to get to the safety of the street.

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.

- The flats are not self-contained, they would be accessed via a single shared staircase. This staircase would be the fire escape;

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.

- This is a commercial area and therefore residential use is not appropriate;

Officer note: Noted. Environmental Health Officers were consulted on tandem application 2021/94748 and have requested a number of conditions relating to noise, these can be found within the conditions section of that report. This matter is not a material consideration for a listed building consent application.

- Lack of need for residential accommodation on Cross Church Street there is a planning application for 31 apartments on New Street, Huddersfield this is a more appropriate form of residential accommodation;

Officer note: Noted however, each application is based on its own merits and assessed as such. This matter is also not a material consideration for a listed building consent application, especially as this application would not provide consent for the change of use itself.

- Traffic congestion.
- The development is in a Conservation Area and out of character with the local street scene.
- There is no adequate area for waste disposal and storage.
- Which planning policy supports the use of flats above take aways in a town centre?
- Whilst there is support for the principle of re-introducing residential accommodation into the town centre there requires a clear strategy outlining where and what form of tenures/ownership and type of provision will best benefit and compliment the towns retail and business community, as well as practical issues such as waste disposal and collection.
- Cross Church Street is currently a focus for bar and late-night activities, coupled with future potential developments for event and eating facilities in relation to Kingsgate. Residential accommodation on this street may not be compatible with such activities. Concerns over noise pollution and odour.

Officer note: These are not material to the assessment of a listed building consent application and will be assessed under 2021/94748

- This building has had numerous works done to it without planning or listed building consent. For example, the staircase is not the original one, it is a replacement which does not meet building control requirements.

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

Consultation Responses

KC Conservation & Design – Comments received 21st February 2022. No objections to the proposals.

Historic England – Comments received 16th February 2022. They do not wish to offer any comments and suggest that the Council's specialist conservation advisor is consulted.

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):

- **LP35** – Historic Environment

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 16** – Conserving and enhancing the historic environment

Legislation:

- Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Assessment

1 - Principle of Development:

The key issue for consideration in this case is the impact on the significance of the listed building.

Section 16(2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that: *"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State 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."*

Listed Buildings are designated heritage assets and Paragraph 194 of the NPPF states that: *"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise."*

Paragraph 199 of the NPPF state that: *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*

Paragraph 200 of the NPPF goes on to state that: *"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."*

Paragraph 202 of the NPPF states that when a proposed development would lead to harm, it is necessary to achieve public benefits that outweigh the harm to the heritage asset.

Policy LP35 of the Kirklees Local Plan echoes this guidance and 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 listing description for this building is as follows:

'CROSS CHURCH STREET 1. 5113 (West Side) No 11 SE 1416 NE 2/420 II GV 2. Early C19. Hammer-dressed stone. 3 storeys. Moulded eaves cornice. Continuous sill bands. 2 ranges of sashes, one with glazing bars. Original rainwaterhead and downpipe'.

Regarding the impact upon the Grade II Listed Building, the majority of the works are to consist of internal alterations. The Council's Conservation Officer was consulted on the proposals and raises no objections as the interior of the building has been reconfigured in the past to create upper floor space for the business premises below. As no significant features survive on the first floor,

with limited interest on the second floor, the proposed internal alterations are therefore not considered to harm 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, the rooflights and a replacement ground floor door will cause no harm to the significance of the listed building and these alterations are therefore acceptable. However, the rooflights shall be of conservation style and this can be conditioned

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

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 can be conditioned.

It is therefore considered that the proposals would result in there being no harm to significance of the Grade II listed building, and as such, the proposal meets the requirements of the National Planning Policy Framework in Chapter 16 and in turn, is complaint with Policy LP35 of the Kirklees Local Plan.

Conclusion:

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Grant Listed Building Consent.

Decision Authorisation: Delegated Powers

Application Number: 2022/90087

Officer Recommendation: Grant Listed Building Consent

Conditions and Reasons:

1. beginning with the date on which consent is granted.
   Reason: Pursuant to Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as many 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, to ensure that the works preserve the significance of the listed building and to accord with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

2. No works to install secondary glazing into the existing windows shall take place until details outlining how no damage will be caused to the existing windows, and how the secondary glazing window frames will line with the existing sash windows have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in complete accordance with the approved details.
   Reason: To ensure that the works preserve the significance of the listed building, and to accord with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

3. The existing timber door on the front elevation of the host property which leads into the rear yard area shall be retained.
   Reason: To ensure that the works preserve the significance of the listed building, and to accord with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

4. The rooflights hereby approved on the rear roof slope shall be CR01-2 conservation rooflights or of a similar style.
   Reason: To ensure that the works preserve the significance of the listed building, and to accord with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

NOTE: As advised by the Council's Conservation & Design Officer, the applicant should note that the existing timber door on the front elevation of the host property which leads into the rear yard area shall be retained, in the interests of preserving the setting and significance of Huddersfield Town Centre Conservation Area and the host Grade II Listed Building.

NOTE: Whilst Listed Building Consent has been granted for application 2022/90087, planning permission is required for the change of use of the first and second floors of the building to a residential use.

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. Additional details have been requested from the Conservation & Design Officer in respect to the internal and external alterations proposed. A sectional drawing was also requested and an amended floor plan to remove any reference to bedroom 3 in flat 1.

5. The development shall be begun not later than the expiration of three years

Report Dated: 12/09/2022