

**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:	2022/62/90344/E
Site Address:	104, Old Lane, Birkenshaw, BD11 2JX
Description:	Change of use from dwelling to beauty parlour and salon
Recommending Officer:	Jennifer Booth

DECISION – Full Conditional 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 30th March 2022

OFFICER REPORT

Site Description

The application relates to a single storey building with a small porch and a bay window on the front, stone front elevations, rendered sides. There is a small, paved area to the front and a slightly larger paved area at the rear.

The building is located on a residential street with a mix of house types.

Description of Proposal

The applicant is seeking permission to change the use from dwelling to beauty salon with no external alterations.

Relevant Planning History

1987/01918 – alterations to existing shop to provide new walls and roof – granted

1997/90283 – change of use of shop to office – refused, upheld at appeal

2002/91816 – change of use of office to studio flat – granted

2002/92940 – change of use of existing office to nail/beauty shop - refused

2021/92764 - certificate of lawful use for dwelling - granted

History of negotiations

Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicant. In this instance, given the proposed use is normally a town centre use and Old Lane is not a local centre, the applicant was asked to provide sequential information to align with LP13 of the KLP.

Representations

The application was advertised by neighbour letters, which expired on 18/03/2022

As a result of the above publicity, three representations have been received. Two objecting to the proposals. The material considerations raised are summarised as follows:

- Highway safety as a narrow road, near drives and a bus stop with potential for customers to park.
- Loss of privacy as a result of a business.

- A commercial property would be out of character with the residential street.

Although other matters may have been raised, only the material considerations can be assessed by officers.

Consultation Responses

K.C. Highways - informal consultation, given the limited scale of the proposal and subject to a condition would not object.

K.C. Policy – informal consultation, the use is a main town centre use and the site is not in a local centre, with appropriate sequential information from the applicant, would not object.

K.C. Environmental Health – informal consultation, would support subject to conditions re hours of operation and restriction of customer numbers.

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 site is UNALLOCATED on the Kirklees Local Plan Proposals Map

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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP13** – Town Centre Uses
- **LP 22** – Parking
- **LP 24** - Design
- **LP 30** – Biodiversity
- **LP52** – Protection and improvement of environmental quality

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, and 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 6 – Building a strong, competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

Principle of development:

The site is without notation on the Kirklees Local Plan (KLP). 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.

The proposal is to change the use of the property from residential to a beauty salon. The Use Classes Order has been updated in 2021 and whilst previously, there was some ambiguity over the use as a beauty salon whereby the use was considered to be a sui generis use, the updated Use Classes Order now includes class E, specifically iii which covers “any other service which it is appropriate to provide in a commercial, business or service locality.”

Policy LP13 of the Kirklees Local Plan and chapters 6 & 7 of the National Planning Policy Framework are of relevance as this would be considered as a main town centre use. The site is approx. 319m from Birkenshaw local centre and as such, the location would not be considered as within or edge of local centre location. As a proposal for a town centre use outside of a defined centre, a sequential test is required. This has been provided in the form of a supporting statement from the applicant which confirms that there are no vacant uses within Birkenshaw local centre. As there is a no suitable site within the local centre, the use could be considered to be acceptable in the proposed location on Old Lane.

Policy LP24 of the Kirklees Local Plan and chapter 12 of the National Planning Policy Framework are relevant in terms of the impacts of the proposal on the amenities of the neighbouring properties and the street scene.

In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, regarding supporting businesses, balancing the vitality of local centres whilst preserving amenities of neighbouring residents, as well as highway safety.

Impact on visual amenity:

There are no external alterations proposed to the building. However, altering the use has potential to affect the character of an area. In this instance though given the low scale nature of the beauty salon proposed, with the applicant confirming that this would have one staff member with one customer at a time on an appointment basis, the use is not considered to have any significant implications in terms of the character of the area.

Having taken the above into account, the proposed change of use to beauty salon would not cause any significant harm in terms of visual amenity thereby complying with Policy LP24 of the Kirklees Local Plan (and the aims of chapter 12 of the National Planning Policy Framework).

Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The site is on a residential street with residential properties to both sides, opposite the front and to the rear. The potential for impact on the neighbours as a result of changing the use to a beauty salon would be from the customers visiting the site. As a domestic property, there would potentially be trips to and from the site from the occupants of 104 Old Lane for work and school along with visitors to and from the home. In order to limit the impact of a change from the existing residential use to a beauty salon, conditions are advised to control the hours of opening and restricting the customers on site at any one time. With such conditions, the use proposed would not have a significant impact over and above the potential comings and goings of a domestic property with trips to and from work, school, visitors to the site.

The change of use includes no extensions to the building or alterations to the existing openings. There is a large window in the front of the building which faces the properties opposite which currently serves the living space. The change of use to a business would not result in any additional opportunity to impact on the neighbouring properties than existing at present.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local

Plan (b) in terms of the amenities of neighbouring properties, and Paragraph 130 (f) of the National Planning Policy Framework.

Impact on highway safety:

The site is located on a narrow residential street with drives and accesses in close proximity. There are limited parking opportunities for the occupiers of the existing dwelling. KC Highways DM have been informally consulted as part of this application, as permission is sought for the change of use from residential to hairdressers/beauty salon. In this case, given the relatively small size and scale of the proposed use, officers consider that if it is to operate on an appointment basis, it is not anticipated to be a significant traffic generator. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan.

Other matters:

Biodiversity

The development is for a change of use to the building with no external alterations. Whilst the property is sited in area, which is known to include bat habitats, in this instance, given the nature of the proposal, it is considered unlikely to have an impact on the bat population.

Carbon Budget

The proposal is for a change of use of 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.

Representations:

Three representations have been received, two objecting to the proposals. The material considerations raised are summarised as follows:

- Highway safety as a narrow road, near drives and a bus stop with potential for customers to park.
- Loss of privacy as a result of a business.
- A commercial property would be out of character with the residential street.

The material considerations raised include impact on residential amenity, visual amenity and highway safety and have been fully addressed within the relevant subheadings of the report.

Although other matters may have been raised, only the material considerations can be assessed by officers.

Proposed conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.

It is considered reasonable and necessary to restrict the openings hours via condition given the residential locale.

It is also considered to be reasonable and necessary to control the customers to appointment only and one at a time to limit the impact on neighbouring properties and highway safety.

9 – Conclusion:

This application to change the use of 104 Old Lane from residential to a beauty salon has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Extension SPD, the National Planning Policy Framework and other material considerations.

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.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would on balance constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2019/90000

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 to accord with Policy LP24 of the Kirklees Local Plan, Key Design Principles of the House Extension SPD and the aims of the National Planning Policy Framework.

3. No activities associated with the beauty salon use hereby approved shall be carried out on the premises, including deliveries to and dispatches from the premises, outside the hours of 0800 and 2000 Monday to Friday and 0800 to 1800 Saturdays with no opening on Sundays or Bank Holidays.

Reason: In the interests of the amenity of nearby occupiers in accordance with Policy LP24 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

4. The use hereby permitted shall be on an appointments only based system with only one customer in attendance at the site at any one time.

Reason: In the interests of the protection of the amenity of nearby occupiers, to protect highway safety and to accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan and Policies in Chapter 15 of the National Planning Policy Framework.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours, Mondays to Fridays

08.00 and 13.00hours, Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Location plan	-	916017	02/02/2022
Floor plans	-	916019	02/02/2022
Supporting statement	-	-	24/03/2022

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 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.

Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicant. In this instance, given the proposed use is normally a town centre use and Old Lane is not a local centre, the applicant was asked to provide sequential information to align with LP13 of the KLP.

Report Dated 25/03/2022

