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:	**2022/62/90590/E**
Site Address:	131, Westgate, Cleckheaton, BD19 5EJ
Description:	Change of use from retail to residential and associated alterations
Recommending Officer:	Nina Sayers

DECISION – Conditional Full Permission

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 17 May 2022

Officer Report

Site Description

131 Westgate is a two-storey, detached property in Cleckheaton. The property faces directly onto the pavement of Westgate which is a classified A road. Due to the steep topography the property project backwards and forms an additional basement level, so to the rear the property has three storeys. There is a communal parking area to the west of the property which is accessible via Westgate.

The property previously served a video game store. It is noted that this is a retrospective planning application and so the property has already been converted to a dwelling

The property is in a mixed-use area with both residential and retail units, although not within a defined local or district centre. The properties to either side are older, stone properties, however there is variety in design, materials and age of the surrounding properties.

Description of Proposal

The applicant is seeking permission for the change of use from a retail unit to a residential dwelling.

The proposed would serve a two-storey, five-bedroom dwelling with associated living space and garages. There would be access ramp/steps with a handrail installed to the front of the dwelling, but the remainder of the external property would be unaltered by the proposed scheme.

History of negotiations/amendments received

No amendments were sought or received.

Relevant Planning History

89/03605 Erection of electronics retail/repairs, offices and garages. Refused

90/05859 Change of use from retail to private hire booking office. Refused

92/02373 Erection of video library shop with storage and car parking. Refused

93/04704 Erection of video library shop with storage and car parking. Conditional full permission

2000/90487 Erection of video library shop with storage and parking. Conditional full permission

Representations

The application was advertised by neighbour letter. Final publicity expired 20/04/2022.

Three representations were received in response to the above publicity. Their comments will be discussed in section 6 of this report.

Consultation Responses

KC Highways DM were formally consulted regarding this application – no objections.

KC Environmental Health were formally consulted regarding this application – no objections subject to conditions.

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 Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), both require development to be considerate in terms of the character of the host property and the wider street scene.
The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan:

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP21** – Highways and access
- **LP22** – Parking
- **LP24** – Design
- **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, 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 12 – Achieving well-designed places

Assessment

The following matters are considered in the assessment below –

1) Principle of development
1) Impact on visual amenity and historic environment
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) Conclusion

1 – 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. In terms of extending and making

alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design.

The proposal is for change of use to a residential dwelling. the property is unallocated on the Kirklees Local Plan and is located within a residential and retail area. Therefore, the proposed residential use would be in keeping with the surrounding area.

In this case, the principle of development is considered acceptable and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

These issues along with other policy considerations will be addressed below.

2 – Impact on visual amenity

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.127 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district. With regard to extensions, it states under part c, that proposals should promote good design by ensuring 'extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details'.

The exterior of the proposed development would remain unaltered by the proposal other than the addition of an access ramp and handrail which would be a moderate addition to the scheme and would not cause harm to visual amenity. It is therefore considered that no harm would be caused to visual amenity as a result of the proposed scheme.

Having taken the above into account, the proposed development would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of policy LP24 c), which states that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

The site is located on the A643 Westgate and in conjunction with consultation with KC Environmental Health, officers are of the opinion that the impact of noise from road traffic, and any necessary attenuation measures, requires consideration to ensure that the development complies with Conditions LP24 and LP52 of the KLP. Since the proposal is retrospective, it is considered

reasonable to impose a condition requiring the submission of a Noise Assessment within a specified time period (6 weeks).

The proposed dwelling would have the same openings as the previous retail unit, however it is noted that the property would now serve habitable spaces, and therefore could cause harm to the amenity of neighbouring properties.

Impact on Hope House, and 133 Westgate
Hope House and 133 Westgate are both located due west of the application site. There is a shared driveway, providing access to Hope House and the application property, in between the two properties, creating a separation distance of approximately 11 metres. The primary windows for Hope House are all located on the eastern elevation, facing 131 Westgate. 133 Westgate also has openings in the eastern side elevation. There are 6 windows on the western elevation of 131 Westgate. The ground floor windows would serve a secondary light source to primary living space. Two of the first-floor windows would serve a secondary light source to a bedroom and the central, first-floor window would be the only window for a bedroom. This could result in some overlooking to the occupants of Hope House and 133 Westgate.

It is noted that under the approval for the property to be erected and used as a video store (2000/90487), the windows in the western side elevation were conditioned to be obscurely glazed or a minimum of 1.68 metres from floor level. Given the concerns regarding overlooking to the neighbouring occupants, it is therefore considered that is would not be unreasonable to condition the same for the proposed dwelling. This would prevent any overlooking harm to the occupants of Hope House or 133 Westgate. It is acknowledged that from the residential amenity perspective of the occupants of the application property, this is not an ideal arrangement, however is considered to be acceptable on balance given the planning history of the site.

As there would be no external alterations to the property, no overbearing or overshadowing harm, over and above the existing arrangements on site, are considered to be caused as a result of the proposed scheme.

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, Key Design Principles 3, 5, 6 & 7 of the House Extension SPD and Paragraph 130 (f) of the National Planning Policy Framework.

<u>4 – Impact on highway safety</u>

The proposed scheme was to change the use of the property from a retail unit to a five-bedroom dwelling. For a property of this size, three off-street parking spaces would be required. The proposed scheme shows parking provision for two vehicles in the basement level of the property and three adjacent to the dwelling. This is therefore considered appropriate parking for a proposal of this nature and therefore KC Highways DM had no objections to the scheme.

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 along with Key Design Principles 15 & 16 of the House Extension SPD.

5 – Other matters

Ecology
The site is located within a bat alert layer on the Council's GIS mapping system. As this is a relatively new property, and as no alterations are proposed to the roof or eaves of the property, no harm is considered to be caused to any bats, should they be present. However, if approved, a precautionary footnote would be added to the decision notice to provide the applicant with advice, should bats or evidence of bats be found during construction. This would accord with the aims of policy LP30 of the KLP and chapter 15 of the NPPF.
Construction
It is noted that Environment Health requested a condition regarding construction site working times. As this is a retrospective application which will not involve external works, this condition is not considered necessary.
Carbon Budget
The proposal would not involve exterior works. 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.
In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of an electric car charging point is recommended. The proposal therefore complies with Policies LP20, LP21, LP24, LP51, and LP52 of the Kirklees Local Plan, Principle 18 of the Housebuilders Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.
There are no other matters for consideration.

6 - Representations

Three representations were received in response to the publication of this application. They raised the following concerns:

- The property has already been turned into a dwelling

Response: The council is aware that this is a retrospective planning application, and that property has been reported to Kirklees Council's Planning Enforcement team.

- The property has 7 bedrooms not 5 bedrooms.

Response: The proposal will be considered as detailed on the submitted plans.

- Should have obscure glazing on the western elevation to prevent overlooking to neighbouring properties
- Overlooking harm to neighbouring properties

Response: This is a material planning consideration so has been carefully considered in the residential amenity section of this report.

- Improper foundations and drainage and poor-quality build

Response: This is not a planning consideration at this stage and would likely be a matter for Building Control. No further comment will be made.

- Reports of parking on the pavement and junction

Response: highway safety is a material planning consideration and has been carefully considered in the highway safety section of this report.

7 – Conclusion

This application to change the use of 131 Westgate from a retail unit to a residential dwelling has been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Design SPD, the National Planning Policy Framework and other material considerations.

Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed extension is considered to be acceptable.

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 constitute sustainable development and is therefore recommended for approval.

Recommendation **Approve**

Decision Authorisation - Delegated Powers

Application Number: 2022/90590

Officer Recommendation: Approve

Conditions and Reasons

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 may be specified in the conditions attached to this

permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22 and LP24 of the Kirklees Local Plan, Key Design Principles of the House Extension SPD and the aims of the National Planning Policy Framework.
2. Within three months of the date of this permission being granted, all openings in the western side elevation must be obscurely glazed (to a minimum Grade 4). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) the obscure glazing (to a Grade 4) shall thereafter be retained.
Reason: To prevent overlooking to the neighbouring properties and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.
3. Within six weeks of the date of this permission being granted, a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- A Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) for each residential unit that has a dedicated parking space

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.
4. Within six weeks of the date of this permission being granted, a report specifying the measures to be taken to protect the development from noise from road traffic on the A643 Westgate and nearby commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

a) Determine the existing noise climate
b) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

Reason: In the interests of residential amenity and to accord wit Policies LP24 and LP54 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

NOTE All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants http://www.association-of-noiseconsultants.co.uk/ (020 8253 4518) or the Institute of Acoustics http://www.ioa.org.uk (0300 999 9675) for a list of members.

NOTE: A Standard electric vehicle charging point is one which is capable of providing a continuous supply of at least 16A (3.5kW). A 32A (7kW) is however more likely to be futureproof.

- Standard charging points for single residential properties that meet the requirements specified in the latest version of “Minimum technical specification -Electric Vehicle Homecharge Scheme (EVHS)” by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 sockets would be acceptable.
- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation.

NOTE: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership

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	Version	Date Received
Grouped existing plans	EX-01		18/02/2022
Existing floor plans	EX-02		18/02/2022
Existing elevations	Ex-03		18/02/2022
Grouped proposed plans	PL-01		18/02/2022
Proposed floor plans	PL-02		18/02/2022
Proposed elevations	PL-03		18/02/2022

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.
As the submitted plans were considered acceptable, no changes were sought.
Report Dated: 10/05/2022