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:	**2022/62/91255/W**
Site Address:	85, Heatherfield Crescent, Marsh, Huddersfield, HD1 4QN
Description:	Change of use of existing detached garage to business use (beauty salon)
Recommending Officer:	Lucy Taylor

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 30th June 2022

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Officer Report.

Reference: 2022/91255

Location: 85, Heatherfield Crescent, Marsh, Huddersfield, HD1 4QN

Proposal: Change of use of existing detached garage to business use (beauty salon)

Site Description.

85 Heatherfield Crescent is a two-storey detached property located in a residential area. Within the curtilage of the site, is a detached garage. The detached garage is located to the rear of the host property, to the eastern side boundary of the site. The detached garage is constructed from brick with a tiled gable roofing form.

The application site is Unallocated in the Kirklees Local Plan.

Description of Proposal.

The proposal is for the change of use of a detached garage (Class C3) to a beauty salon (Class E).

No external alterations are proposed.

Hours of opening will be 09:00-16:00 Thursday and Friday and 09:00-13:00 Saturdays.

History of Negotiations/Amendments Received.

No amendments were sought or submitted.

Upon the consultation response from KC Environmental Health, imposing a condition regarding the opening times of the beauty salon, the applicant was requested to provide written confirmation to these. The applicant provided written agreement via email to the operating hours as imposed by KC Environmental Health.

Representations.

Final publicity date expired: 18th May 2022 (publicity by neighbour letter only in accordance with Table 1 of the Kirklees Development Management Charter) – no representations were received.

Consultation Responses.

KC Environmental Health – regard the proposal to be acceptable with the inclusion of two conditions regarding operating hours and entertainment noise inaudibility.

KC Highways Development Management – consider the application to be acceptable on highways grounds.

Policy.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan, unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated in the Kirklees Local Plan.

Since the application is for a change of use only it is considered that it does not raise access issues or other issues under the Equality Act. It is noted, however, that there is level access to the door of the building.

Kirklees Local Plan (LP):

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP13 – Town Centre Uses
- LP21 – Highway Safety and Access
- LP24 – Design
- LP52 – Protecting and Improvement of Environmental Quality

Supplementary Planning Documents:

Kirklees Council's Highways Design Guide SPD (2019)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, 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 planning consideration in determining applications.

- Chapter 2 – Achieving Sustainable Development
- Chapter 6 – Building a strong, competitive economy
- Chapter 7 – Ensuring the Vitality of Town Centres
- Chapter 12 – Achieving Well-Designed Places

- Chapter 14 – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- Chapter 15 – Conserving and Enhancing the Natural Environment

Assessment.

The following matters are considered in the assessment below:-

1) Principle of development
1) Impact on visual amenity
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 notion in the Kirklees Local Plan.

Chapter 2 of the NPPF states that: *"Planning policies and decisions should play an active role in guiding development towards sustainable solutions…"*

Chapter 2 of the NPPF goes onto further state that objectives should: *"support strong, vibrant and healthy communities, providing the supply of housing required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment…"*

In line with the NPPF, policy 1 of the Kirklees Local Plan declares that: *"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."*

LP1 goes further and states: *"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."*

Policy LP2 set out that all development proposals should seek to build on strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the LP is relevant and states that *"good design should be at the core of all proposals in the district".*

The site is not located within a town or local centre. Chapter 7 of the NPPF states that planning decisions should support the role that town centres play at the heart of local communities. Local Plan policy LP13 states that, proposals which come forward for main town centre uses, which are located outside of defined centre boundaries, will require the submission of a Sequential Test. However, this application is exempt from submitting a sequential test because the proposed premises is under 150 square metres.

Chapter 6 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Therefore, in this case, on a very small scale, the proposed change of use complies with the aims of Paragraph 80 of the NPPF, resulting in the creation of a very small beauty salon business at 85 Heatherfield Crescent.

It is noted however, that Use Class E includes a very wide range of uses that could be undertaken without any further planning application being required. These may not be appropriate for a building within such close proximity to unconnected residential property, could harm the viability and vitality of Local Centres and may not be in the interests of highway safety. Given this, it is recommended in this specific case that a condition is imposed tightly restricting the permitted use to that applied for (beauty salon) and for no other use within Class E. This would accord with Policy LP24b, LP13, LP21 and LP52 of the Local Plan.

The proposed change of use from a domestic garage to a beauty salon is acceptable in principle, providing that the change of use does not adversely affect the wider visual amenities of the area, the amenities of nearby residents or highway safety.

1. **Impact on Visual Amenity**

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 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…'
The proposal does not, in itself, involve any exterior changes to the existing detached garage at 85 Heatherfield Crescent. Therefore, the appearance of the garage will remain the same following the internal change of use, retaining its existing appearance and relationship with the curtilage of the host dwelling and wider locality.

The proposal therefore appropriately complies with the aims of Policies LP24(a) and LP35 of the Kirklees Local Plan and with Chapter 12 of the NPPF.

2. **Impact on Residential Amenity**

Section B and C of LP24 states that alterations to existing buildings should: *"…maintain appropriate distances between buildings'* and *'…minimise impact on residential amenity of future and neighbouring occupiers."* Policy LP52 states that proposals which have the potential to increase pollution from, amongst other things, noise must include suitable and sustainable mitigation measures to protect the quality of life and well-being of people.

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. Paragraph 185 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health by (amongst other things) mitigating and reducing to a minimum potential adverse impact resulting from noise.

The properties most likely to be affected by the proposed change of use at 85 Heatherfield Crescent are those which directly neighbour the site, these being 87 Heatherfield Crescent to the east and 89 Heatherfield Crescent to the west.

The proposal does not pose any exterior alterations to the existing detached garage at 85 Heatherfield Crescent, including no increase to its size, scale or footprint and no increase in glazing. Therefore, the development will not create any increased impact to overbearing, overshadowing or neighbouring privacy.

Given the predominantly residential setting of the site, several conditions have been imposed to regulate any potential noise pollution from the change of use. Firstly, to protect the amenity of nearby sensitive receptors from noise generated by customers arriving and departing, a condition has been imposed to restrict the hours of use. This would prevent noise and disturbance from comings and goings at unsocial hours. Secondly, as no information was provided regarding any background music that may be used at the proposed business, and that amplified music at the premises could give rise to loss of amenity to sensitive receptors at neighbouring properties, a condition has been imposed to ensure inaudibility of any amplified music from the beauty salon. However, it is important to note that, the end use as a beauty salon, is not, by its very nature, a noisy use.

Therefore, with the inclusion of several conditions related to noise pollution and restricting the use to that applied for, the change of use would comply with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the NPPF. This is because, the change of use, under the imposed conditions, would cause no undue detriment to the occupies of dwellings located in close proximity, most importantly with an application of this nature, cause no detriment in terms of noise disturbance.

3. **Impact on Highway Safety**

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highways Design Guide SPD, which seeks to ensure acceptable levels of off-street parking, is also relevant.

Consultation with KC Highways Development Management concluded that sufficient levels of off-street parking were available at 85 Heatherfield Crescent in conjunction with the proposed use of the existing detached garage as a beauty salon. In addition, it is important to note that the change of use of the existing detached garage will not result in the loss of an on-site parking space, for reasons of its internal dimension and steps to a side door that restrict access to the building. This is reliant upon the beauty salon being operated by a permanent resident of no. 85 Heatherfield Crescent in the interests of highway safety and to comply with Policy LP21 of the Local Plan.

The provision of only one customer car parking space is acceptable, with the premises only having one client on-site at any one time, with a minimum of 15 minutes between the end of one appointment and the start of the next.

Although no turning is available for the customer car when parked in the allocated space, other dwellings in the immediate area have driveway parking without turning so the principle of reversing to park has already been established locally and therefore is not viewed as a highway safety concern.

As the dropped kerb to the front of the dwelling would not be wide enough to cover the proposed spaces, this would need changing under a S184 agreement with the Local Authority. A footnote is included within the decision notice which provides more information on this.

With regard to increased vehicular movement to the site, Highways Development Management do not consider the change of use to pose severe impacts on the operation or efficiency of the local highway network. This is for reasons of the size of the premises, which will cater to single customers.

Therefore, for these reasons, the proposal is considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan and Paragraph 111 of the NPPF.

4. 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.

Considering the small-scale of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. It would provide a local facility that nearby residents could access without the use of a car and is in an area where there are good public transport links. The proposed development would therefore comply with Chapter 14 of the NPPF and Policy LP51 of the Kirklees Local Plan.

Bats
Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity. Policy LP30 outlines that development proposals should minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

The application site lies within the Bat Alert layer on the Council's GIS system. As such, careful attention has been paid when looking for evidence of bat roof potential.

In this instance, the garage appeared well sealed around the eaves and roof area and it was judged unlikely to contain roosting bats. In addition, the proposed change of use to the detached garage presents no works or alterations to its roof.

Even so, as a cautionary measure, a note will be added to the decision notice stating that if bats are found development shall cease and the advice of a licensed bat worked sought. This is to accord with the aims of Chapter 15 of the NPPF.

5. Representations

No representations were received.

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 development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve

Decision Authorisation – Delegated Powers
Application Number: 2022/91255
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 Policies LP1, LP2, LP13, LP21, LP24 and LP52 of the Kirklees Local Plan and Chapters 2, 6, 7, 12,14 and 15 of the National Planning Policy Framework.

3. The building and use defined ‘proposed business premises’ on drawing no. 01 hereby permitted shall not be open to customers outside the hours of

9:00 to 16:00 Thursday and Friday
9:00 to 13:00 Saturday

Reason: To ensure that the proposed use does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. Noise from amplified and non-amplified music at the premises shall be controlled so as to be inaudible at nearby residential premises. Inaudibility being defined as:

- If the LAeq, (1min) (of the music etc. noise) is not greater than the LA90 (of the background with no music etc. noise); and
- If the L10 (5min) (of the music etc. noise) is not greater than the L90 (of the background with no music etc. noise) in each 1/3rd octave band between 40Hz and 160Hz.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. The use of the building defined ‘proposed business premises’ on drawing no. 01 shall be operated solely by a permanent resident of No. 85 Heatherfield Crescent.
Reason: In the interests of highway safety and to accord with Kirklees Local Plan Policy LP21.
6. The building defined ‘proposed business premises’ on drawing no. 01 shall be used for no purpose other than as a beauty salon and not for any other purpose in Class E of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order.
Reason: To ensure the proposed development does not cause noise and disturbance to neighbouring properties in the interest of amenity, to preserve the vitality and viability of town centres, in the interests of highway safety and to comply with the aims and objectives of Policies LP13, LP21, LP24 and LP52 of the Kirklees Local Plan and Chapters 7, 12 and 15 of the National Planning Policy Framework.

Inaudibility Footnote:
A simple “sound check” can be carried out outside the nearest noise sensitive property by listening to the music etc. coming from the application premises. If the music etc. is clearly audible, then it is likely that this condition is being breached. Therefore, steps should be taken to reduce the level that the music etc. is being played at.

Bats Footnote:

Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Recommendation:
It is recommended that prior to development commencing the applicant should contact the Health and Safety Team of Environmental Services to discuss health and safety requirements, including the possible need for Registration. The Health and Safety Team can be contacted on 01484 221000 (ask for the Health and Safety Team) or by email at healthandsafety@kirklees.gov.uk.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Grouped Plans and Elevations	01	-	8.4.22
Support Statement	-	-	8.4.22

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 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. No amendments were sought or submitted.

Report Dated: 27.6.22