

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	2022/44/92236/E
Site Address:	Field House, 15 Wellington Street, Dewsbury, WF13 1BQ
Description:	Discharge of conditions 3 (detailed drawings), 4 (additional storey), 5 (materials), 6 (residential waste), 7 (A3 use waste), 9 (swift nesting), 14 (ventilation), 15 (noise assessment) and 19 (air quality) of previous permission 2019/92962 for erection of additional storey and conversion of building to provide 23 self-contained apartments and A3 use in basement and part of ground floor (Listed Building within a Conservation Area)
Recommending Officer:	Victor Grayson

DECISION – Discharge of Conditions- Split Decision

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

David Wordsworth

AUTHORISED OFFICER

Date: 28-Apr-2023

Officer Report

Discharge of conditions 3 (detailed drawings), 4 (additional storey), 5 (materials), 6 (residential waste), 7 (A3 use waste), 9 (swift nesting), 14 (ventilation), 15 (noise assessment) and 19 (air quality) of previous permission 2019/92962 for erection of additional storey and conversion of building to provide 23 self-contained apartments and A3 use in basement and part of ground floor

Decisions/applications to date

2019/92962 – Planning permission granted 11/12/2019 for erection of additional storey and conversion of building to provide 23 self-contained apartments and A3 use in basement and part of ground floor.

2019/92963 – Listed building consent granted 11/12/2019 for erection of additional storey and conversion of building to provide 23 self-contained apartments and A3 use in basement and part of ground floor.

In response to an email dated 31/01/2023 (and its attachments dated 05 and 06/12/2022, on 07/02/2023 the case officer advised:

The information you have provided confirms that a material operation has been carried out. I am therefore satisfied that works have commenced, and that development has begun in accordance with the timeframe set out in condition 1 of permission ref: 2019/92962.

2022/93679 – Discharge of conditions application for condition 10 (CMP) of previous permission 2019/92962 – pending determination.

Consultation

The comments of KC Ecology, KC Environmental Health and KC Waste Strategy are referred to below where relevant.

On 08/07/2022 Cllr Lukic commented regarding condition 4 as follows:

As proposed this additional storey could appear rather incongruous to the design/materials of the listed building and surrounding conservation area.

The window size looks reasonable but as [the case officer has] pointed out they are rather different otherwise. I am also uncertain about the complete lack of window surrounds when this is a prominent feature of the building, and the use of zinc cladding as the primary material on the facing pitches of the roof. Tiled materials/appearance for the face of the roof would probably be a better fit with the area.

Please treat this as a request to refer the application to committee if officers recommend approval, so that members can examine whether

the design details for the mansard roof are appropriate for this listed building.

I'll be happy to reconsider the request for committee referral if an amended design is received.

Condition 3 (detailed drawings)

Condition 3 reads as follows:

3. Prior to the commencement of development (including demolition works, but excluding soft strip-out works), a schedule of all windows of the existing building (including details of the type, materials, age and condition of each window), and detailed drawings including plans, elevations and sections of all external windows and doors of the development hereby approved (including details of retention, refurbishment, replacement and any measures related to air quality and noise mitigation) shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full to the satisfaction of the Local Planning Authority prior to the first occupation of the development hereby approved, and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In the interests of visual amenity, to maintain the character and appearance of the Dewsbury Town Centre Conservation Area, and to accord with policies LP24 and LP35 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure adequate information regarding existing historic fabric (and works to it) is provided at an appropriate stage of the development process.*

The applicant has submitted various drawings pursuant to condition 3, as well as a schedule, a window specification and a condition survey. These are yet to be reviewed by the case officer and KC Conservation and Design.

As officers' assessment is ongoing, an approval pursuant to condition 3 cannot be issued at this stage.

Condition 4 (additional storey)

Condition 4 reads as follows:

4. Prior to internal works commencing (other than demolition and soft strip-out works), detailed drawings including plans, elevations and sections of the additional storey hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The drawings shall include detailing of the fourth floor windows. The development shall be implemented in full accordance with the drawings so approved.

Reason: *In the interests of visual amenity, to maintain the character and appearance of the Dewsbury Town Centre Conservation Area, and to accord with policies LP24 and LP35 of the Kirklees Local Plan.*

The applicant has submitted several drawings and a schedule pursuant to condition 4. These are yet to be reviewed by the case officer and KC Conservation and Design. In addition, Cllr Lukic has raised concerns regarding the submitted details.

As officers' assessment is ongoing, an approval pursuant to condition 4 cannot be issued at this stage.

Condition 5 (materials)

Condition 5 reads as follows:

5. Prior to internal works commencing (other than demolition and soft strip-out works), details and samples of all external materials to be used (including window materials) shall be submitted to and approved in writing by the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

Reason: *In the interests of visual amenity, to maintain the character and appearance of the Dewsbury Town Centre Conservation Area, and to accord with policies LP24 and LP35 of the Kirklees Local Plan.*

The applicant has submitted several drawings and documents pursuant to condition 5. These are yet to be reviewed by the case officer and KC Conservation and Design. The applicant has also advised that material samples are available to view.

As officers' assessment is ongoing, an approval pursuant to condition 5 cannot be issued at this stage.

Condition 6 (residential waste)

Condition 6 reads as follows:

6. Details of storage and collection of wastes from the residential use hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to internal works commencing (other than demolition and soft strip-out works). The details shall include arrangements for the moving of bins from the approved bin store on collection days. The details so approved shall be implemented prior to first occupation of any part of the residential use hereby approved, and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with policy LP24 of the Kirklees Local Plan.*

The applicant initially submitted drawing 2018-051 0810 titled "Refuse Strategy (Residential)" pursuant to condition 6.

On 18/07/2022 KC Waste Strategy informally commented as follows (regarding conditions 6 and 7):

Despite some changes the proposals do not really address the waste issues identified by Carol Oakden in her response to the 2019 planning application e.g. location of store with access through lobby to main entrance and then no close location for access of an RCV.

The currently proposals include waste storage in the retail unit using a rear access door and ramp that with a change to the internal layout (depending on floor levels) may be a more acceptable solution for the whole building.

This is a difficult site to service and waste issue could be a long term problem if not resolved.

On 01/11/2022, the applicant team met the case officer and KC Waste Strategy (online) to discuss the proposals.

On 04/11/2022, the applicant submitted amended drawing 2018-051 0810 rev B titled "Refuse Strategy (Residential)", and stated:

The new identified collection points to the side of the building will hopefully offer a more discreet location and ease collection as they are nearer to the road/kerbside.

We have marked the routes to the side of the building as additional to the original locations as they are now in excess of 25m but it is agreed they are a better location for collection.

It is also confirmed that the bins will be wheeled out to the agreed collection points and back again by the building management and the tenant for residential and A3 unit waste respectively on the day of collection.

On 16/11/2022, KC Waste Strategy informally commented as follows:

I have discussed the proposals with John Bramley Ops Team Leader at Dewsbury.

I can confirm that the commitment for the management company / caretaker to be responsible for moving / putting out / returning bins from the internal bin store to a Bin Collection Point on the corner of Wellington Street at the location shown on the plans is acceptable and therefore the conditions can be discharged.

Given the above advice, it is recommended that the information submitted pursuant to condition 6 be approved.

Condition 6 further stipulates that the approved details shall be implemented prior to first occupation of any part of the residential use hereby approved, and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Condition 7 (A3 use waste)

Condition 7 reads as follows:

7. Details of storage and collection of wastes from the A3 use hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to internal works commencing (other than demolition and soft strip-out works). The details shall include arrangements for the moving of bins from the A3 unit on collection days. The details so approved shall be implemented prior to first occupation of any part of the A3 use hereby approved, and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with policy LP24 of the Kirklees Local Plan.*

The applicant initially submitted drawing 2018-051 0811 titled "Refuse Strategy (A3 unit)" pursuant to condition 7.

As with condition 6, KC Waste Strategy made initial informal comments, officers met with the applicant team, and an amended drawing (2018-051 0811 rev A titled "Refuse Strategy (A3 unit)") was submitted.

Given KC Waste Strategy's further informal comments of 16/11/2022, it is recommended that the information submitted pursuant to condition 7 be approved.

Condition 7 further stipulates that the approved details shall be implemented prior to first occupation of any part of the A3 use hereby approved, and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Condition 9 (swift nesting)

Condition 9 reads as follows:

9. Prior to internal works commencing (other than demolition and soft strip-out works), a method statement for the creation of a swift colony nest site shall be submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:

- a) location of proposed nest features shown on appropriate scale maps and plans;*

- a) detailed design(s) and/or make and model of features to be installed;*
- b) means of encouraging colony establishment, including playback of “Swift Calls”;*
- c) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;*
- d) persons responsible for implementing the works; and*
- e) initial aftercare and long-term maintenance.*

The works shall be carried out strictly in accordance with the approved details prior to occupation of the development hereby approved, and installed features shall be retained in that manner thereafter.

Reason: *to encourage the establishment of a swift nesting colony, to ensure a net biodiversity gain is achieved, and to accord with policy LP30 of the Kirklees Local Plan.*

The applicant submitted a Swift Colony Method Statement (Brooks Ecological, ER-5709-01, 02/09/2021) pursuant to condition 9.

In comments dated 27/07/2022, KC Ecology advised that the submitted statement would ensure that the development would provide an overall uplift for Swift nesting opportunities, providing a net gain for biodiversity at the site, compliant with Local Plan LP30. As such, KC Ecology supported the discharge of condition 9.

Given this advice, it is recommended that the details submitted pursuant to condition 9 be approved.

Condition 9 further stipulates that the approved works shall be carried out prior to occupation of the development hereby approved, and that the installed features shall be retained in that manner thereafter.

Condition 14 (ventilation)

Condition 14 reads as follows:

14. Prior to first occupation of the residential use hereby approved, a ventilation scheme for apartments that would need to keep windows closed to prevent adverse amenity impacts due to noise shall be submitted to and approved in writing by the Local Planning Authority. The ventilation scheme shall show how habitable rooms of these apartments shall be provided with sufficient ventilation to help control thermal comfort and avoid overheating during hot weather without the need to open windows. All works forming part of the approved ventilation scheme shall be completed prior to occupation of that apartment and shall be retained thereafter.

Reason: *In the interests of amenity, to comply with policies LP24 and LP52 of the Kirklees Local Plan.*

The applicant submitted a Sustainability CIBSE TM59 Assessment (Hoare Lee, rev 00, 10/09/2021) and several accompanying drawings pursuant to condition 14.

Regarding overheating, the submitted assessment asserts that all habitable areas of the apartments would comply with the TM59 requirements (Criterion 2, Mechanical Ventilation), except for one living room (02-APT 2.01- Kitchen/Living). In order to mitigate the overheating risk in this one room, the applicant's assessment states that consideration should be given to include blinds / curtains or to allow MVHR to operate in boost mode for short periods of time. The six open plan living/kitchen rooms/bedrooms on the 3rd/4th floor where active cooling would be provided would by default comply with TM59 overheating requirements.

In comments dated 22/08/2022, KC Environmental Health accepted the applicant's information.

Given the above advice, it is recommended that the information submitted pursuant to condition 14 be approved, on the proviso that ventilation measures would be provided for all apartments (to address a further point raised by KC Environmental Health).

Condition 14 further stipulates that all works forming part of the approved ventilation scheme shall be completed prior to occupation of that apartment and shall be retained thereafter.

Condition 15 (noise assessment)

Condition 15 reads as follows:

15. Prior to internal works commencing (other than demolition and soft strip-out works) a noise assessment report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:-

- a) an assessment of all of the likely noise emissions from the A3 use hereby approved; and*
- b) a written scheme detailing how occupants of the noise-sensitive residential use hereby approved would be protected from noise from the A3 use hereby approved including details of all necessary noise attenuation measures.*

The A3 use hereby approved shall not commence until all works included within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: *To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interests of amenity, to comply with policies LP24 and LP52 of the Kirklees Local Plan.*

The applicant submitted a letter dated 28/06/2022 (Luis Ruivo, Principal Acoustics Engineer, Hoare Lee) pursuant to condition 15.

In comments dated 22/08/2022, KC Environmental Health acknowledged that the exact nature of the future commercial unit operation is not known at this stage, but that reference should be made to the West Yorkshire Planning Consultation Guidance (Noise and Vibration) 2016 document. In the meantime, KC Environmental Health advised that condition 15 should not be discharged.

After the above matter was briefly discussed at an online meeting with officers held on 01/11/2022, the applicant submitted an email on 03/11/2022, requesting advice on what would need to be submitted in order to satisfy the requirements of condition 15. This has been forwarded to KC Environmental Health for comment.

As officers' assessment is ongoing, an approval pursuant to condition 15 cannot be issued at this stage.

Condition 19 (air quality)

Condition 19 reads as follows:

19. Prior to the commencement of development (including demolition and soft strip-out works), a full Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall determine the impact on the development hereby approved from the poor air quality in the area and shall provide details of the required mitigation measures that will be provided to address any such adverse impact. The approved mitigation measures shall be implemented before any residential use commences and shall be retained thereafter.

Reason: *To ensure residents of the development hereby approved are not exposed to poor air quality, and to accord with policy LP51 of the Kirklees Local Plan.*

This pre-commencement condition is necessary to ensure adequate information regarding air quality (and any works required in relation to it) is provided at an appropriate stage of the development process.

The applicant submitted a document titled "Air Quality Assessment to Discharge Planning Condition 19 of Application 2019/92962" (Surface, Version 3, April 2020) pursuant to condition 19.

In comments dated 22/08/2022, KC Environment Health agreed with the applicant's approach, methodology and conclusions regarding air quality, and concluded that the applicant had addressed the points raised by KC Environmental Health at application stage. KC Environmental Health further advised that the recommended mitigation measures as outlined on page 19 (sections 5.3.3.1 (construction dust) and 5.3.3.2 (boiler specifications)) of the submitted assessment be implemented.

Given the above advice, it is recommended that the details submitted pursuant to condition 19 be approved.

Condition 19 further stipulates that the approved mitigation measures shall be implemented before any residential use commences and shall be retained thereafter.

Recommendation

Split decision:

- Approve details pursuant to conditions 6, 7, 9, 14 and 19.
- Decisions relating to conditions 3, 4, 5 and 15 to follow.

Decision Notice Text

Conditions 3 (detailed drawings), 4 (additional storey) and 5 (materials) – Assessment of the submitted details is ongoing, and an approval pursuant to conditions 3, 4 and 5 cannot therefore be issued at this stage. A decision in relation to these conditions will follow in due course.

Condition 6 (residential waste) – You have submitted drawing 2018-051 0810 rev B titled “Refuse Strategy (Residential)”, and you have confirmed that bins would be wheeled out to the proposed collection points and back again by the building management on the day of collection. These arrangements are considered acceptable, and are hereby approved pursuant to condition 6. Please be reminded, however, that condition 6 further stipulates that the approved details shall be implemented prior to first occupation of any part of the residential use hereby approved, and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Condition 7 (A3 use waste) – You have submitted drawing 2018-051 0811 rev A titled “Refuse Strategy (A3 unit)”, and you have confirmed that bins would be wheeled out to the proposed collection points and back again by the tenant of the A3 unit on the day of collection. These arrangements are considered acceptable, and are hereby approved pursuant to condition 7. Please be reminded, however, that condition 7 further stipulates that the approved details shall be implemented prior to first occupation of any part of the A3use hereby approved, and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Condition 9 (swift nesting) – You have submitted a Swift Colony Method Statement (Brooks Ecological, ER-5709-01, 02/09/2021). The information contained therein is considered acceptable for the purpose of condition 9, and is hereby approved. Please be reminded, however, that condition 9 further stipulates that the approved works shall be carried out prior to occupation of the development hereby approved, and that the installed features shall be retained in that manner thereafter.

Condition 14 (ventilation) – You have submitted a Sustainability CIBSE TM59 Assessment (Hoare Lee, rev 00, 10/09/2021) pursuant to condition 14, as well as the following drawings:

- 1441354-HLEA-XX-02-DR-M-100501 S3 rev P01
- 1441354-HLEA-XX-ZZ-DR-M-100504 S3 rev P01
- 1441354-HLEA-XX-B1-DR-M-100101 S3 rev P01
- 1441354-HLEA-XX-GF-DR-M-100102 S3 rev P01
- 1441354-HLEA-XX-01-DR-M-100103 S3 rev P01
- 1441354-HLEA-XX-02-DR-M-100104 S3 rev P01
- 1441354-HLEA-XX-03-DR-M-100105 S3 rev P01
- 1441354-HLEA-XX-03-DR-M-100106 S3 rev P01
- 1441354-HLEA-XX-RF-DR-M-100107 S3 rev P01

The information provided in the above-listed document and drawings is considered acceptable for the purpose of condition 14, on the proviso that ventilation measures would be provided for all apartments. Please also be reminded that condition 14 further stipulates that all works forming part of the approved ventilation scheme shall be completed prior to occupation of that apartment and shall be retained thereafter.

Condition 15 (noise assessment) – You have submitted a letter dated 28/06/2022 (Luis Ruivo, Principal Acoustics Engineer, Hoare Lee) pursuant to condition 15, and later submitted an email on 03/11/2022, requesting advice on what would need to be submitted in order to satisfy the requirements of condition 15. Consideration of this matter is ongoing, and an approval pursuant to condition 15 cannot therefore be issued at this stage. A decision in relation to this condition will follow in due course.

Condition 19 (air quality) – You have submitted a document titled “Air Quality Assessment to Discharge Planning Condition 19 of Application 2019/92962” (Surface, Version 3, April 2020) pursuant to condition 19. Information set out within that document is considered acceptable for the purpose of condition 19, and is hereby approved on the proviso that the recommended mitigation measures as outlined on page 19 (sections 5.3.3.1 (construction dust) and 5.3.3.2 (boiler specifications)) of the submitted assessment shall be implemented. Please also be reminded that condition 19 further stipulates that the approved mitigation measures shall be implemented before any residential use commences and shall be retained thereafter.

Report Dated: 26/04/2023

