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:	**2022/62/92548/E**
Site Address:	98, Commercial Street, Batley, WF17 5DP
Description:	Change of use of redundant Chinese medical centre to flat and takeaway (within a Conservation Area)
Recommending Officer:	Elenya Jackson

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: 15 November 2023

Officer Report.

Reference: 2022/92548

Location: 98, Commercial Street, Batley, WF17 5DP

Proposal: Change of use of redundant Chinese medical centre to flat and takeaway (within a Conservation Area)

Site Description.

98 Commercial Street is a two storey mid terrace property which is stone built and immediately abuts the pavement. Currently the ground floor of the building is occupied by a Chinese Medical Centre and the first floor is vacant.

The site is adjoined by similar units which are currently occupied by ‘spices and rices’ and a burger establishment.

The site is in Batley Market Place conservation area.

Description of Proposal.

Planning permission is sought for the change of use of 98, Commercial Street, Batley, WF17 5DP to a hot food takeaway and flat.

There is no increase to the footprint of the property proposed as part of the development.

A rear window would be amended to a door to facilitate access to the first floor flat and an internal wall created to allow shared access with ‘spices and rices’ at the front.

Due to the location of the site within a Conservation Area, KC Conservation and Design have been consulted and requested no alterations to the traditional shop front in the host property.

Proposed hours of opening have not been provided.

History of Negotiations/Amendments Received.

Following consultations from KC Environmental Health, the applicant submitted additional information, specifically a noise assessment and odour report. Following the submission of this, KC Environmental Health were reconsulted. They accepted the details and have recommended conditions relating to extraction and noise.

Alterations were requested by KC Conservation and Design to ensure the proposal would preserve and enhance the conservation area. As a result, the proposal was amended to remove the additional door from the principal elevation of the building.

Relevant Planning History.

No relevant planning history.

Representations.

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, a site notice and a press notice which expired on 23 September 2022– no representations received.

Consultations.

KC Public Health – Under the obesogenic environment calculation tool used by KC Public Health, the application scored a total of 18 points. This total is considered acceptable from a Public Health perspective; however, they recommend that if the application is granted, the applicant be referred for further support from the FINE team:
Kirklees Food Initiatives and Nutrition Education (FINE) Project
Requests for support to: Kirklees FINE Project 01484 221000 (ask for FINE project) or email: fine.project@kirklees.gov.uk

KC Environmental Health – No objections however further information requested relating to extraction, noise and insulation.

KC Highways Development Management – No objections subject to conditions

KC Waste Strategy – No specific details provided relating to the waste strategy on site and therefore conditions are required.

KC Planning Policy- Comments provided by KC Planning Policy do not raise any concerns regarding the character, function or vitality of this area of Batley Town Centre.

Policy/Legislation.

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 for Kirklees is the Local Plan (adopted 27th February 2019).

The application site is not allocated within the Kirklees Local Plan.

Kirklees Local Plan (LP):

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP3 – Location of New Development
- LP13 – Town Centre Uses
- LP 15: Residential use in town centres
- LP16 – Food and Drink and the Evening Economy
- LP20 – Sustainable Travel
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP24 – Design
- LP25 – Advertisements and Shop Fronts
- LP35 – Historic Environment
- LP47 – Healthy, Active and Safe Lifestyles
- LP51 – Protection and Improvement of Local Air Quality
- LP52 – Protection and Improvement of Environmental Quality

Supplementary Planning Documents (SPD):

- Kirklees Waste Management Design Guide for New Developments (2020)
- Highways Design Guide (2019)
- Hot Food Takeaway SPD
- Housebuilders Design Guide Supplementary Planning Document, 2021

National Policies and Guidance:

National policies and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, together with Circulars, Parliamentary Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

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- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-Making
- Chapter 7 – Ensuring the Vitality of Town Centres
- Chapter 8 – Promoting Healthy and Safe Communities
- Chapter 9 – Promoting Sustainable Transport
- 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

- Chapter 16 – Conserving and Enhancing the Historic Environment

Assessment.

The following matters are considered in the assessment below:-

1) Principle of development
1) Impact on local economy and vitality and viability
2) Impact on visual amenity (including heritage considerations)
3) Impact on residential amenity
4) Impact on highway safety
5) Other Matters
6) Representations
7) Conclusion

1) Principle of Development

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."*

Policy 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 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

Within the NPPF, it will be assessed having regard to the advice to drive sustainable economic development and to support existing business sectors in "Core planning principles" and "Building a strong competitive economy" (Chapter 6) and the promotion of the vitality and viability of local centres as set out in "Ensuring the vitality of town centres" (Chapter 7).

Also of relevance is the advice in Chapter 8 of the NPPF, 'Promoting Healthy and Safe Communities'. This Chapter states that planning decisions should ensure that crime and disorder, or the fear of crime, do not undermine quality of life or community cohesion. Policy LP47j of the Kirklees Local Plan also states that healthy, active and safe lifestyles will be enabled by working with partners to manage the location of hot food take-aways particularly in areas of poor health.

Chapter 15 of the NPPF, 'Conserving and Enhancing the Natural Environment', will also be considered, which states that any possible pollution impacts must be assessed at the planning stage.

Turning to the Local Plan, Policy LP16 of the Kirklees Local Plan states that proposals of this nature (Food and Drink and the Evening Economy) should be supported, subject to ensuring that the concentration of food and drink and licensed entertainment uses should not be in any one part of the centre, where this would result in harm to the character, function, vitality and viability of the centre, and subject to other criteria such as noise, fumes, and potential anti-social behaviour.

Policy LP13 states, in brief, that local centre uses should remain to predominantly provide top-up shopping and local services. This policy also requires that proposals that have a significant adverse impact on the vitality and viability of a centre or compromise the role and function of a centre will not be supported.

In addition, the proposal would create first floor accommodation above the proposed unit.

In the case of applications for residential development such as this, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land.

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.
The 2023 up-date of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making "Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."
The Council's inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers assessment.

1) **Impact on Local Economy and Vitality and Viability of Town Centres**

Chapter 7 of the NPPF relates to the ensuring the vitality of town centres. Paragraph 86 of the NPPF outlies that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Policy LP13 of the Kirklees Local Plan is consistent with Government guidance contained within the NPPF. Policy LP13 states that within Kirklees, main town centre uses shall be located within defined centres (principal centres, town centres, district centres, and local centres), as shown on the Policies and Town Centre Maps, and as detailed in the shopping centre hierarchy and then in accordance with the sequential test. Policy LP13 also states that proposals which have a significant adverse impact on the vitality and viability of a centre, or compromise the role and function of a centre will not be supported. Policy LP13 goes on to note that the role and function of Local Centres is to provide top-up shopping and local services particularly food and drink.

In addition, Policy LP13 states that centres shall provide a mix of uses to serve the local community, businesses and visitors to the district. The uses shall complement each another whilst retaining a strong retail core. Centres in Kirklees shall aim to provide a range of uses to support the daytime and evening economy

It is noted that policy HFT2 of the Council's Hot Food Takeaway SPD sets out that applications that increase the concentration of hot food takeaways to ground floor units in a local centre to more than 15% of all main town centres are harmful to the vitality and viability of the local centre.

The proposed use would constitute a food and drink use therefore consideration must be given to Policy LP16 of the Kirklees Local Plan. This states that proposals for food and drink uses will be supported, provided they are located within a defined centre and subject to ensuring the concentration of food and drink and licensed entertainment uses are not located in a particular centre or part of a centre, where they would result in harm to the character, function, vitality and viability of the centre, either individually or cumulatively.

Policy LP16 goes on to note that in order to assess the potential harm of food and drink proposals on a centre, the following criteria will be considered with a planning application:

a) the number, distribution and proximity of other food and drink uses, including those with unimplemented planning permission in a particular centre;

a) the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas;
b) the potential for anti-social behaviour to arise from the development, having regard to the effectiveness of available measures to manage potential harm through the use of planning conditions and / or obligations;
c) the availability of public transport, parking and servicing;
d) highway safety;
e) the provision of refuse storage and collection; and
f) the appearance of any associated extensions, flues and installations.

Due to the proposal representing a main town centre use, KC Planning Policy were consulted on the application when it was initially received and did not raise any concerns regarding the functionality and viability of the town centre should the proposal receive planning permission.

It is therefore concluded that, the proposed change of use would not be harmful to the character, function or vitality/viability of the local centres within the vicinity of the site. The proposal is therefore considered to comply with Local Plan Policy LP13 and LP16a, and with Chapter 7 of the NPPF.

2) 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…"

As outlined above, Policy LP16g states that in order to assess the potential harm of food and drink proposals on a centre, consideration will be given to the appearance of any associated extensions, flues and installations.

No advertisements have been indicated as part of the application, but the external alterations include:

- Alterations to the rear elevation of the property to enable access to the first floor flat
- A roof light in the principal and rear elevation

- An extraction system to the rear elevation

KC Conservation and Design have been consulted on the application to the property being situated within a conservation area. Initially concerns were raised regarding the alterations to the existing shop front; however, revised plans were received which would see the access to the proposed takeaway being shared with 'rices and spices' to the west of the application property.

The agent was asked to clarify any alterations to the existing shop front and confirmed 'the windows on the plans are as existing, the one to the left is currently upvc with a central horizontal bar and the one to the right is in four sections as shown.

The current street scene has three smaller panes in the top of the existing unit and one larger pane of glass below with the door to the right. It seems as though there is a slight discrepancy in the plans compared to what is on site; therefore, a condition is deemed necessary to ensure no alterations are made to the existing shop front and details of the first floor window are provided to ensure any alterations would be in-keeping with the character of the area.

The proposed first floor use of residential accommodation would not require any further alterations to the principal elevation of the building.

Therefore, subject to conditions ensuring no alterations are made to the existing shop front and details of windows are provide, the proposal is considered acceptable in terms of impact to the character of the area and would not significantly harm the character of the conservation area.

3) Impact on Residential Amenity

Policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers.

Policies HFT4 and HFT5 of the Hot Food Takeaway SPD set out that Proposals for new hot food takeaways must demonstrate effective kitchen odour control and extract systems and appropriate noise attenuation measures and that appropriate waste disposal measures are undertaken.

Chapter 15 of the NPPF, 'Conserving and Enhancing the Natural Environment' is also of relevance to residential amenity. Paragraph 174 (e) sets out that, planning policies and decisions should contribute to and enhance the natural and local environment by *"preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, wate or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information…"*

In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

Policy LP16b states that in order to assess the potential harm of food and drink proposals on a centre, the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas will be considered.

With regard to the proposed change of use, the site is located in a mixed use commercial and residential area.

The first floor of the majority of the units within the vicinity retain a residential use.

Given the presence of these residential properties, it is important to assess the impact of any sources of odour and noise. A noise and odour assessment has been provided by the agent to support the application which has been reviewed by KC EH.

The findings of the odour assessment are generally accepted by KC Environmental Health; however, further conditions are deemed necessary relating to extraction systems, further noise details and confirmation of airborne sound insulation.

It is considered necessary to implement a condition relating to hours of opening to mitigate the disturbance to the occupiers of the first floor residential unit.

It is considered that, subject to conditions, the change of use would appropriately comply with the aims of Policies LP16(b), LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the NPPF, causing no detriment to the buildings located in close proximity, most importantly with an application of this nature, causing no detriment in terms of noise disturbance.

Future occupiers:

Section (b) of Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

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.

Although the proposal is a conversion with no new build, the following principles within the Housebuilders Design Guide are highlighted here as being potentially relevant:

Principle 16 – all new dwellings to have sufficient floor space to meet basic lifestyle needs, having regard to the Nationally Described Space Standards. The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers. These are not currently adopted in the Kirklees Local Plan. The council will seek to adopt such a policy in the future in accordance with evidence and in the meantime will seek to ensure high quality living environments through the application of Local Plan policy LP24 (Design).

Consideration must also be given to the amenity of future residents of the proposed dwelling. Taking into account principle 16 of the Kirklees House Builder's Design Guide which sets out that:

'*All new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations'* and that *'All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity and living environments for future occupiers in accordance with Policy LP24'.*

National space standards require the following gross internal floor area for a dwelling:

2 Bedroom, 3-person dwelling set over 2 storeys- 70 square metres.

The proposed floor plans show that the unit would have an internal floor space of at least 80m^2 . It is considered that an acceptable standard of living would be demonstrated if the proposal received planning permission.

4) Impact on Highway Safety

Paragraph 111 of the NPPF states that: *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

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 Highway Design Guide is also relevant, seeking to retain acceptable levels of off-street parking.

The application site is located in Batley Town Centre.

There has not been a highway statement provided to support the application or a demonstration of the waste provision on site.

Discussions have been held with KC Highways and KC Waste and it is considered necessary to secure by condition the details relating to the storage and collection of wastes.

The bin storage should be design in such a way that:

- The bin store should avoid creating a fire risk and therefore may need relocating depending on fire risk assessment.
- Separate bins will be required for residual waste, recycling and consideration should be given to food waste and secure storage for cooking oils/fats
- Confirmation is required on the construction specification of the waste/bin storey surfaces. These surfaces should be durable and waterproof to withstand heavy duty cleaning.

As previously highlighted, opening hours associated with the proposal have not been provided; however, it is considered that a weekday opening time of 18 would be acceptable to avoid the network peak hours and on street parking associated neighbouring businesses.

As such, conditions have been recommended relating to hours of opening.

Therefore, subject to conditions, the proposal is considered to comply with Policies LP16 (d and f), LP21 and LP22 of the Kirklees Local Plan.

5) 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. In this case, due to the nature of the proposal it is not considered reasonable to require the applicant to put forward any specific resilience measures.

Crime and Disorder:

Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority to *"do all that it reasonably can to prevent crime and disorder in its area"*. Chapter 8 ('Promoting healthy and safe communities') of the National Planning Policy Framework states at paragraph 92 that there should be an aim to achieve healthy, inclusive and safe places which: (b) are safe and

accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Policy LP16(c) of the Kirklees Local Plan sets out that the potential for antisocial behaviour to arise from the development, having regard to the effectiveness of available measures to manage potential harm needs to be considered as part of any proposal.

Policy LP24 sets out that proposals should promote good design by ensuring the risk of crime is minimised by enhanced security, and the promotion of well-defined routes, overlooked streets and places, high levels of activity, and well-designed security features.

Paragraph 92 (b) of Chapter 8 of the NPPF, 'Promoting Healthy and Safe Communities', sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places which: *"are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion…"*

Hot food takeaways can become the focus for crime and antisocial behaviour or contribute to these problems in the wider area. It is recommended that features of secure design be installed within the premises.

Public Health:

Policy LP47 of the Kirklees Local Plan states the council will create an environment which supports healthy, active and safe communities and reduces inequality. Policy LP47j goes on to state that healthy, active and safe lifestyles will be enabled by working with partners to manage the location of hot food take-aways particularly in areas of poor health.

KC Public Health have assessed the application by considering local details such as deprivation, overweight adults, obese adults, 5 year olds with access weight, 11 year olds with excess weight, diabetes and Coronary Heart Disease. KC Public Health have produced a scoring category based on these indicators of deprivation. An objection has not been received from KC Public Health; however, a note will be attached to the decision notice to advise the applicant to contact the Council's FINE (Food Initiatives and Nutrition Education) Team. Therefore, it is considered that the proposal would unlikely result in adverse impacts on public health.

Waste Management:
The site is being converted from a medical centre into a takeaway and therefore it is considered necessary to impose a condition on the application relating to the collection and storage of waste on site and a scheme to prevent fats, oils, and grease entering the drainage network in order to ensure the proposal would accord with LP44 of of the Kirklees Local Plan.

6) Representations

No representations were received.

7) Conclusions

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: Conditional Full Permission

Decision Authorisation – Delegated Powers
Application Number: 2022/92548

Officer Recommendation: Conditional Full Permission

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.

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, expect 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, LP3, LP13, LP16, LP20, LP21, LP22, LP24, LP35, LP47, LP51 of the Kirklees Local Plan and LP52 and Chapters 2, 4, 7, 8, 9, 12, 14, 15 and 16 of the National Planning Policy Framework.

2. Before any food cooking commences the kitchen extract system as specified in Odour Assessment by Redmore Environmental, dated the 3rd of July 2023, ref: - 6725r1 shall be installed and operational. The kitchen extract system shall thereafter be retained, operated at all times during the preparation and cooking of food and maintained in

accordance with the manufacturer's instructions and as specified in the report.

Reason: To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises 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.

3. Prior to cooking commencing on site, a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to first operation of the development and shall be retained throughout the lifetime of the development.
   Reason: To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, and environmental well-being and to comply with LP44 of the Local Plan and Chapter 15 of the National Planning Policy Framework.

4. No activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 18:00 and 22:00 Monday to Friday and 14:00 to 22:00 Sundays (including bank holidays).
   Reason: To ensure that the proposed development does negatively impact the highway network in the interest of Highway Safety and to accord with Policies LP21 and LP22 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. Within one month from the date of this decision notice, details of storage of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. These shall include the construction specification of the waste/bin store. These areas shall be provided within two months from the approval of the discharge of condition and thereafter retained and kept clear of all obstructions to the use as storage and collection of waste from the premises.
   Reason: To ensure that the development has adequate facilities for the separation and storage of wastes and to ensure that they can be collected without causing an obstruction to the public highway, so as to accord with the aims of Policies LP21 and LP24(d)(vi) of the Kirklees Local Plan.

6. Before the development is brought into use, the developer shall provide written evidence to the Local Planning Authority to demonstrate that the airborne sound insulation performance of the party floors/walls/ceiling of the development is of a minimum of 55dB Dntw + Ctr. If it cannot be demonstrated that the aforementioned airborne sound insulation performance has been achieved, a scheme incorporating further measures to achieve the sound insulation performance shall be submitted for the written approval of the Local

Planning Authority. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned sound insulation performance level has been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.
Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises 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.

7. Prior to first opening a further noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include: a) an assessment of all of the noise emissions from the proposed development b) details of existing background and predicted future noise levels at the boundary of the nearest noise sensitive premises c) a written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation The development shall not be brought into use until all works comprised 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 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.

8. Prior to cooking commencing on site, details of a kitchen extract system shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide the following information:
   - A risk assessment for odour which considers amount and type of food that will be cooked together with the proposed dispersion of odours and proximity of receptors likely to be affected by any cooking odours.
   - Based on the risk assessment, details of the proposed methods of odour control and dispersion of any extracted odours.
   - Details showing the proposed location of all the major components of the extract system.
   - The noise mitigation measures that will be incorporated in the extract system and details of the likely resulting noise levels that will be caused by operation of the extract system, in particular how loud it will be at nearby noise sensitive locations.
   - The proposed ongoing maintenance schedule that will be carried out to ensure that the extract system continues to effectively control odours and not cause excessive noise.
   - That the effective stack height (discharge height plus plume rise) is high enough to ensure that adequate dilution takes place before the plume interacts with the nearest sensitive receptor.

Reason: To ensure the proposed development does not cause harmful odour pollution at adjoining sensitive receptors or neighbouring receptors, 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.

9. Notwithstanding the approved plans there are to be no alterations to the existing shop front of 98 Commercial Road without prior consent from the Local Planning Authority.
   Reason: To ensure the proposed development does not cause harmful to the character of the street scene or the conservation area in the interest of visual amenity, to comply with the aims and objectives of Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

10. No works to install/replace new windows shall take place until details at 1:5 and elevations at 1:20 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 the proposed development does not cause harm to the character of the street scene or the conservation area in the interest of visual amenity, to comply with the aims and objectives of Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Note:
It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety Team can be contacted on 01484 221000 or Email: fine.project@kirklees.gov.uk

Note:
Health & Safety Footnote All workplaces where staff are employed need sanitary accommodation and all premises which are open to the public for entertainment and consumption of food and drink require toilets that are accessible to the public. If applicants need further advice on number and facilities, then please contact the Health and Safety team on 01484 221000 (ask for health and safety) or by email at healthandsafety@kirklees.gov.uk.

Note:
Footnote Detailed advice is available in “Control of Odour and Noise from Commercial Kitchen Exhaust Systems” by EMAQ May 2022 which is an update of “Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems” by DEFRA 2005.

Note:
Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It

has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Note: It is advised that the occupants sign up to the Environment Agency's Flood alerts using the link below: What to do if you get a flood alert - GOV.UK (flood-warning-information.service.gov.uk)

Note: The applicant is reminded that Kirklees Council has powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including odours and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Note: Detailed advice is available in "Control of Odour and Noise from Commercial Kitchen Exhaust Systems" by EMAQ May 2022 (2nd Edition).

Note:
All noise assessments should be carried out by a competent person. The applicant may wish to contact the Association of Noise Consultants http://www.association-of-noise1consultants.co.uk (020 8253 4518) or the Institute of Acoustics www.ioa.org.uk (0300 999 9675) for a list of members.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed Plans	22/79/A	E	3/11/2023
Design and access statement			08/08/2022
Odour Assessment	P6070-R2-V1		4/10/2023
Noise Assessment	J3163 - Rev 1		31/05/2023
Existing Plans	22/79/A		08/08/2022
Location Plan			08/08/2022

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 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. In this instance, officers entered into discussions with the agent regarding an odour assessment, an acoustic report and submission of further details.