

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:	2022/62/92657/W
Site Address:	Bfc Chicken Takeaway, 939, Leeds Road, Deighton, Huddersfield, HD2 1UE
Description:	Change of use of hot food takeaway to extend existing dwelling
Recommending Officer:	Katie Chew

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: 21 September 2022

Officer Report

Site Description

Bfc Chicken Takeaway, 939, Leeds Road, Deighton, Huddersfield, HD2 1UE

The application site relates to a two-storey detached brick-built building which is currently used as both residential living accommodation and a hot food takeaway. The building is stepped back from the public highway (Leeds Road) but does front onto a hard landscaped area which is currently used as informal car parking.

To the north of the site is a fish and chip shop, currently operated by 'Atlantic Diamond', to the south is a convenience store 'Costcutter' and to the west are numerous residential properties.

The application site is not located within a Conservation Area or located in close proximity to any Listed Buildings.

Description of Proposal

The application seeks planning permission for the change of use of hot food takeaway to extend existing dwelling.

The proposals seek to remove the existing kitchen, entrance and storage facilities for the takeaway and replace these with a lounge, study/office, hallway and storage/garage for the existing dwellinghouse which is located to the rear of the property at ground floor level and upstairs at first floor level. The proposals simply seek to extend the existing living accommodation for the existing occupiers.

As the majority of the changes are internal, there are minimal external works to be undertaken. These works include removing the existing shopfront and replacing it with a front door and domestic windows, the existing storage door to the front elevation is also to be removed and replaced with a garage door.

History of negotiations/amendments received

No amendments have been sought in this instance.

Relevant Planning History

2012/91358 – Change of use of ground floor shop to hot food takeaway. Approved 12th July 2012.

88/06855 – Erection of illuminated sign. Approved 3rd February 1989.

87/04046 – Extension to shop front, garage and store to side. Approved 13th November 1987.

Consultation Responses

KC Environmental Health – Comments received 5th September 2022. ENVH officers have reviewed the application and supporting documents and do not consider there to be any significant environmental health impacts with this development. Therefore, they have no objections to permission being granted for this development.

KC Highways Development Management – Comments received 12th September 2022. No objections to the proposals.

HSE – Comments received 2nd September 2022. HSE do not advise on safety grounds, against the granting of planning permission in this case.

KC Strategic Waste – Comments received 2nd September 2022. There are two closed landfill sites within 250m of application address. Shallow spike testing in 1994 at one of the closed landfill sites detected the above given values. Given that substantial built development lies between the site and the closed landfill sites, it is considered unlikely that methane would present a hazard. Furthermore, the proposals appear to be conversion with no digging/spade in the ground involved. In view of this no further action is required.

Representations

Final publicity date expires:

Neighbour Letters – Expired 16th September 2022.

Officer note: The Council are currently undertaking the legal 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, details of which are outlined above.

Planning Policy Background

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 application site is located within the Strategic Green Infrastructure Network and a Bat Alert Area.

Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**

- **LP7 – Efficient and Effective use of Land and Buildings**
- **LP11 – Housing Mix and Affordable Housing**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP30 – Biodiversity & Geodiversity**
- **LP31 – Strategic Green Infrastructure Network**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP53 - Contamination**

Other Guidance Documents:

- Nationally Described Space Standards
- Housebuilders Design Guide SPD (2021)
- National Design Guide
- Kirklees 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) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-Making
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 8 – Promoting Healthy and Safe Communities
- Chapter 9 – Promoting Sustainable Transport
- Chapter 11 - Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Summary of Principal Planning Issues

The following matters are considered in the assessment below -

- 1) Principle of development
- 1) Scale, design and visual impact of the proposed development
- 2) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 3) Impact on highway safety

- 4) Other matters
- 5) Conclusion

1 - Principle of Development:

1.1 – Sustainable Development

The proposal would lead to the formation of additional living accommodation within an existing dwellinghouse. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.17 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021). As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Furthermore, 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. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

The site is without notation on the Kirklees Local Plan, Policy LP1 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 National Planning Policy Framework. LP1 goes on further to state that:

'The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'.

In this instance Policy LP11 is also relevant as the scheme aims to create additional living accommodation within an existing dwelling. Furthermore, the policy states that *'all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need'.*

Therefore, having taken into account general policies regarding the conversion of the existing takeaway to residential living space, it is considered that the principle can be supported, subject to an assessment against all other material planning considerations below.

2 - Impact on Visual Amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 126 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable 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...”

Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design. Although the SPD relates to new-build properties, it provides useful indicators of good quality design for the creation of dwellings through conversion.

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the

character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

As the proposals simply seek to extend the existing dwelling into the currently vacant hot food takeaway in which it adjoins, there are minimal external alterations proposed. The application seeks to remove the existing shopfront and replace it with a front door and domestic windows, all of which are to be in white UPVC. Internally the existing kitchen and entrance are to be amended to be an office/study and lounge area for the occupiers of the existing dwellinghouse.

Officers welcome the removal of the existing shop front and installation of domestic windows and doors. The windows and doors to be installed should improve the visual appearance of this property and appear to be reflective of the design of windows and doors within other adjacent neighbouring properties.

In conclusion, taking the above into account, the proposed development is not considered to cause any significant harm to the visual amenity of the host dwelling, and it is in officer's opinion that the alterations would improve the overall appearance of the property within the wider street scene, thus complying with Local Plan Policy LP24, Chapter 12 of the NPPF and Principles 2, 13, 14 and 15 of the Council's Housebuilders Design Guide SPD.

3 - 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."

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.

Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: *"Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking."*

Paragraph 185 of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on living conditions. Paragraph 187 of the NPPF states that planning decisions should: *"ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in*

its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

Principle 16 of the Housebuilders Design Guide SPD states that: *"All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan."* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *"All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces."*

Impact on no. 937 Leeds Road

This neighbouring dwelling is located directly to the south of the application site. As no new windows are to be installed within the south elevation of no. 939, and that the existing windows within this elevation will still have a similar relationship given the proposed internal layout, there are no concerns with respect to overlooking or the loss of privacy. In addition, the proposal is for a change of use to the existing property and therefore the footprint, scale or size of the existing building is not due to increase and therefore there are no concerns with regards to overshadowing or the proposals appearing overbearing in nature on this adjacent neighbouring property.

Impact on no. 941 Leeds Road

This neighbouring property is located directly to the north of the application site. As no new windows are to be installed within the northern elevation of no. 939 there are no concerns with respect to overlooking or the loss of privacy on this occasion. Furthermore, as outlined above, the proposal is for a change of use and therefore no changes are proposed to the overall scale, size or footprint of the existing building. Officer's therefore have no concerns in respect of overshadowing or the proposals appearing overbearing in nature.

Impact on nos. 1 & 3 Deighton Road

These neighbouring dwellings are located to the west of the application site. As the majority of the changes relate to the front of the property there are no concerns with regards to overlooking, overshadowing, or the proposals appearing overbearing on nos. 1&3 Deighton Road.

Amenity of future occupiers of the proposed dwelling

Consideration must also be given to the amenity of future residents of the proposed dwelling. Principle 16 of the Housebuilders Design Guide seeks to

ensure the floorspace of dwellings accords with the 'Nationally Described Space Standards' document (March 2015).

Internally, the proposed dwelling would have a GIA that would comfortably exceed the minimum space standards set out in the Nationally Described Space Standards (NDSS), with all habitable rooms having access to at least 1 window. the proposed dwelling would therefore provide an adequate standard of amenity for future occupiers in this regard.

In terms of amenity space, Principle 17 of the Housebuilders Design Guide seeks to ensure adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character / context of the site is provided. In this case it is considered that the amount of outdoor amenity space provided for the proposed dwelling would be adequate with a medium sized garden area provided to the rear which could be utilised for various activities. This rear garden area is sufficiently screened from public views, thus creating an area of private amenity space and would receive sunlight throughout the day.

Whilst officers acknowledge that no. 939 is located in between a shop and takeaway and fronts onto an A-Class road there may be some concerns surrounding noise and odour, in this instance the dwelling already exists and is occupied and the proposals would see the loss of an additional takeaway to the front of the property, thus removing some of the existing background noise and odour at the site immediately adjacent the site. The proposal would not create a new dwelling and thus the impact from road traffic noise would be 'neutral'. Officers therefore raise no concerns on this occasion.

In conclusion, taking the above into account it is considered that the proposals would not result in significant and detrimental impacts on the privacy and amenity of any neighbouring occupants and would provide a good standard of amenity for future occupiers, complying with Policies LP24 and LP52 of the Kirklees Local Plan Principles 6, 16 and 17 of the Housebuilders Design Guide SPD and Chapters 12 and 15 of the National Planning Policy Framework.

4 - Impact on Highway Safety:

Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Furthermore, 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.

In terms of parking provision, the Kirklees Highways Design Guide outlines that Kirklees Council has not set local parking standards but notes that as an initial point of reference for residential development, 3 bedroomed dwellings should provide 2 off street parking spaces.

Principle 12 of the Housebuilders Design Guide sets out, amongst other things, that parking to serve dwellings should not dominate streets and should be to the side / rear. In this instance no off-street parking is shown within the submitted plans and whilst a garage door is shown to the front of the storage room, this would be simply for storage as there is not sufficient internal space to house a vehicle. However, officers noted on a site visit that there is a sufficient amount of hardstanding available to the front of the property which is likely to have been used previously by employees and customers to the takeaway. This portion of hardstanding is already finished with tarmac and could provide off-street parking for 2 vehicles. Whilst this is to the front of the property, due to the restricted nature of the site it would not be possible for parking to be provided to the side and rear and therefore its existing location is deemed to be acceptable on this occasion.

Principle 19 of the Housebuilders Design Guide states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development. Whilst bin storage and collection points are not outlined within the submitted plans, it is considered reasonable to assume that this would remain as is for the current occupiers of the host dwelling. In addition, there would be an overall reduction in the amount of bin storage required given the loss of the previous takeaway use. It is therefore considered that the proposals would meet the requirements of Principle 19 in this instance.

Given the nature of the proposals the Council's Highways officers were consulted. They raised no objections as the proposals seek to retain three bedrooms on the first floor whilst increasing the living space on the ground floor. They consider that the proposal would likely see a decrease in vehicular movements associated with the site and as such Highways DM had no wish to raise objection to the scheme, with no specific conditions recommended.

It is therefore concluded that the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22, principles 12 and 19 of the Housebuilders Design Guide SPD and the guidance contained within the National Planning Policy Framework.

5 - Other Matters:

Biodiversity

Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with the Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Whilst it is acknowledged that the application site is located within a bat alert area, the proposals seek to undertake a simple change of use to an existing building and therefore there is considered to be limited risk of harm to roosting bats. However, an informative has been included to ensure that if roosting bats are found during construction works the proper procedures are undertaken.

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 pre-dates 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.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

The proposal is for a small-scale development to an existing building. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Contamination

The site is within the consultation zone for a hazardous materials site and a close landfill site. Policy LP53 of the Local Plan requires that such contamination issues are properly assessed during the course of an application.

In this case the HSE do not advise against the granting of planning permission and there are no concerns raised regarding migrating gas from the closed landfill site.

Thus, the proposal would adequately comply with Policy LP53 of the Local Plan and Policies within Chapter 15 of the NPPF.

Strategic Green Infrastructure Network

The site is within SGIN where Policy LP31 of the Local Plan applies. As this application simply relates to the change of use of an existing building it will have no impact on SGIN. Furthermore, the land within the curtilage is hardsurfaced and does not impact on sustainable modes of transport routes. It would be disproportionate to the scale of the development proposed to seek enhancements to SGIN.

There are no other matters for consideration.

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

Recommendation:

Approve.

Decision Authorisation - Delegated Powers

Application Number: 2022/92657

Officer Recommendation: Approve.

Conditions & 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, 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, LP7, LP11, LP21, LP22, LP24, LP30, LP31, LP51, LP52 and LP53 of the Kirklees Local Plan, Principles 2, 6, 12, 13, 14, 15, 16, 17, 18 and 19 of the Council's

adopted Housebuilders Design Guide SPD and Chapters 2, 4, 5, 8, 9, 11, 12, 14, and 15 of the National Planning Policy Framework.

NOTE: 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 to intentionally 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 found, then Natural England should be contacted.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Location Plan	LOC	-	8 th August 2022
Existing Plans Elevations & 3D	(100) 01	-	8 th August 2022
Proposed Plans Elevations & 3D	(100)02	-	8 th August 2022
Planning Statement – Supporting Information	2800	-	8 th August 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 preapplication 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 have been sought in this instance as the proposals were deemed to be acceptable upon submission.

Report Dated:

20/09/2022

