

**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:	2022/62/93466/W
Site Address:	former Public Conveniences, Westbourne Road, Marsh, Huddersfield, HD1 4LF
Description:	Erection of extension and alterations to former public convenience to form barbers shop with aluminium shop front and roller shutters
Recommending Officer:	Sam Jackman

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: 17 January 2022

Officer Report – 2022/93466

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f93466>

SITE DESCRIPTION –

The Old Public Conveniences, Marsh is a small single-storey building, built in artificial stone with a flat roof. It is situated just off Westbourne Road on a track leading to a private car park to the north, which also forms a public byway HUD/351/10.

West of the application site is a blank elevation of a chemists with residential accommodation at first-floor and the eastern elevation of the building the subject of this application forms the boundary of the site and backs onto the store/outbuilding in association with a public house (Croppers arms), which is a grade II listed building.

To the south, there is an electric substation and on the opposite side of the road is a supermarket. The surroundings are of mix use consisting of mainly residential and retail/commercial uses.

DESCRIPTION OF PROPOSAL

The proposal is for the change of use of the former public conveniences to barbers' shop (class E), with a single storey side extension, new shop front and security shutters. In 2021 a similar proposal was approved which included the almost identical changes to the building, where the only difference is the use as the previously approved application was for a food bank (B8).

The existing building measures 7.4m wide with a depth of 3m with an overall height of 2.9m. the proposed extension to the north elevation would be the depth of the building and would project from the side by 1.25m.

The existing door to the front elevation will remain, the south elevation opening will be blocked up and the north elevation doorway will be relocated into the extension.

The front elevation will also incorporate a new shop window, which would be 3 floor to ceiling aluminium framed double glazed finished in black windows, incorporating solid security shutters, which will fitted so that the box housing is internal within the building.

The submitted plans indicate an external bin storage, to the south between the electric substation which would be enclosed behind 1.8m timber gates.

The proposed opening hours would be

Mon – Sunday & back hols 9.00 – 18:00

HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED

No negotiations have taken place with the applicant/agent due to the application being acceptable in its submitted format.

RELEVANT HISTORY

2013/92268 – Change of use from public toilets to A1 use – granted 17-10-13

2014/90231- Erection of retail unit with apartment over and demolition of existing public convenience refused – appeal dismissed

2014/93439 Erection of retail unit with apartment over and demolition of existing public convenience refused – Appeal upheld

2020/93007 - Change of use of former public conveniences to Class B8 food bank with erection of single storey extension

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2F93007>

PUBLIC/MEMBERS RESPONSE

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, press advert & site notice which expired on the 9.12.22, whereby no representations have been received.

CONSULTATION RESPONSES

K.C. Conservation & Design – previous comments to 2020/93007 - no objections, provided the roller shutters are internally fitted and the windows have aluminium frames

K.C. Environmental Health – no objections subject to contamination and construction noise conditions (discussed in report below)

K.C. Highways – no objections.

K.C. PROW – no objections, provided the building doesn't extend forward, add informative note

K.C. Policy – no objections - with the proposed use being appropriate for Marsh District Centre, the sequential test being passed and there being no requirement for an impact assessment, Planning Policy have no objections to

the proposed development.

K.C. Ecology (verbal) footnote re bats

POLICY

The site is unallocated on the Kirklees Local Plan, located outside the Marsh District Centre and in close proximity to the croppers arms a grade II Listed Building.

Also the public byway Huddersfield 351/10 runs along the front of the building

Kirklees Local Plan (LP):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP13** – Town Centre Uses
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 35** – Historic environment
- **LP 52** - Protection and improvement of environmental quality
- **LP53** - contamination

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 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.

- **Chapter 6** – Building a strong, competitive economy
- **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

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

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

ASSESSMENT

Principle of development:

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 NPPF.

Policy LP1 goes on further to stating that “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 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

Policy LP13 part A states that the role and function of District Centres such as Marsh includes to provide a range of shopping for everyday needs. The proposed use would be appropriate in Marsh District Centre

Part B of Policy LP13 states that proposals which come forward for main town centre uses and which are located outside defined centre boundaries, will usually require the submission of a Sequential Test. Main town uses shall be first located in the defined centres, then edge of centre locations and only if there are no suitable sites, shall out of centre locations be considered. The NPPF defines edge of centre locations as being those within 300m of a defined centre. With this site being only 15m from Marsh District Centre, it can be considered to be located within an edge-of-centre location.

A Sequential Test should provide evidence on the following details:

- The business model for the development.
- An appropriate catchment that the business would seek to serve in accordance with the Shopping Centre Hierarchy Table.
- An appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification.

The most recent occupancy survey data for Marsh District Centre (from October 2022) shows that whilst there are three vacant premises available within the centre boundary, they are significantly larger (with ground floor floorspaces of 51, 56 and 284 sq. m) than the proposal site and would therefore not be suitable for the proposed development. In terms of catchment area, the customers are likely to come from the area in and around Marsh District Centre. The sequential test is therefore passed.

Part C – Impact Assessment

With 21 sq. m of floorspace being proposed, the thresholds at which an Impact Assessment will be required have not been met.

In this case, the principle of development is considered acceptable and shall be assessed against other material planning considerations below.

Impact on visual amenity and heritage:

When making a recommendation in respect of a planning application affecting a Listed Building or its setting, attention must be given to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'. This is mirrored within Policy LP35 of the Kirklees Local Plan.

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design.

The proposal is for change of use incorporating a small side extension and new display window, given there are no windows in the building. The change of use would not in itself have any impact on the visual character of the area and would comply with policies.

The external changes will result in some changes to the appearance of the building, similar to that already approved (2020/93007) and would allow the disused building to be brought back into use and would not significantly alter its overall appearance, when viewed from the street-scene. As such it is considered that the character of the area would not be harmed, given the overall scale, design and materials of the building will be significant altered.

However, it should be noted that the new side entrance opens onto council land, where it is the applicant responsibility, they are entitled to do so.
(Footnote)

The site is also in close proximity to the Croppers Arms, 136 Westbourne Road, which is listed grade II, where the Council's Conservation & Design officer to the previous application considered the proposal was acceptable, subject to the following

- The roller shutter should be fitted on the interior of the shop window
- The windows should have aluminium frames

In this case the roller shutters would be internal to the shop front and the materials for the frames would be black aluminium, these elements are recommended to be conditioned for clarification. (Conditions 4 & 5). Bringing back this unit into use would enhance the setting of the listed building as this is, presently, an unkempt and untidy site and the building is poorly maintained.

Consideration would have to be given to any separate advertisement consent to ensure that the advertisement would not be stark and out of keeping in the area.

Subject to conditions it is concluded that the proposed development complies with Policies LP1, LP2, LP24 & LP35 of the Kirklees Local Plan and Chapter 12 of the NPPF and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact on residential amenity:

Paragraph 185 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

‘Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary’.

Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

The impact on residential amenity is acceptable, given that the property is on the edge of Marsh centre, where the re-use of this building would have little additional impact on neighbours than the existing commercial premises in close proximity to the site. It is acknowledged that as a Class E use the unit could be changed into a variety of other uses encapsulated in the commercial, business and service use class. However, given the very limited floorspace this would not be likely to result in harm to the amenities of nearby occupiers.

K.C Environmental Health considered the hours of operation the applicant requested as reasonable due to the fact that the use has changed to a barbers’ shop and would be acceptable within a shopping area, furthermore it is close to a pub & play gym. Therefore, the condition for hours reflects this. (condition 6)

Considering the use of the building and the fact that the built form of the building will not dramatically change, there would be no harmful loss of privacy or overbearing to nearby residential properties.

Considering the above, and subject to a condition relating to opening hours, the proposed development complies with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan, The Council's adopted Highway Design Guide and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application.

Along the front of the property is byway Huddersfield 351, where the Council's PROW officers have requested the standard footnote to be added with regards obstructions.

In terms of highway safety there are no parking spaces within the site. However, as it is adjacent to a Local Centre where there is existing on street parking and given the small size of the unit, it is considered unlikely that it would result in any adverse impact on highway safety. As such the proposal is considered to accord with the aims of Policy LP22 of the Kirklees Local Plan with respect to highway safety.

The app also indicates a suitable area for bins, which should be conditioned for clarity so that they don't obstruct the highway. This is in accordance with Policy Lp24 of the Local Plan. (Condition 7)

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 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.

Due to the size, scale and limited nature of development, it was not considered necessary to request specific measures to address the developments' resilience to climate change.

Biodiversity

The Ecologist has requested a footnote to be added with regard the possibility of bats being found. It would not be reasonable or necessary to impose a condition requiring a bat survey given the scale and nature of the building and a footnote here is also deemed unnecessary as this site is located in an area with intensive streetlighting, noise and activity.

K.C Environmental Health have no objections provided a condition is added for contamination due to the property being in close proximity to a YEB substation and albeit the extension is small, this is considered appropriate. (Condition 8 & footnote). In addition, the site is within a coal mining area. The

Coal Authority provide standing advice for sites within a 'low risk' coal area. This is incorporated as an informative note on the decision and highlighted in the 'unexpected contamination' condition 8. This would accord with Policy LP53 of the Local Plan and Chapter 15 of the NPPF.

They have also requested a condition with regards construction noise. However, given the likely scale of development proposed, the level of background noise in the daytime and that other legislation covers nuisance from construction this would not be reasonable or necessary. An informative note will be provided to alert the applicant to suitable hours of use for construction instead.

Representations:

None received

Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Decision Authorisation - Delegated Powers

Application Number: 2022/93466

Officer Recommendation: APPROVE

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP01, LP02, LP13, LP21, LP22, LP24, LP35, LP52 and LP53 of the Kirklees Local Plan and policies within Chapters 6, 9, 12, 15 and 16 of the National Planning Policy Framework.

3. The external walls of the development hereby approved shall in all respects match those used in the construction of the existing building and thereafter retained.

Reason: In the interests of visual amenity and to preserve the significance of a designated heritage asset and to accord with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan, and Policies within Chapters 12 and 16 of National Planning Policy Framework.

4. The roller shutter box housing shall be fitted internal to the shop front window and door and have a factory applied black colour finish as specified on drawing nos. 22/2875/FS1 and 22/2875/FS4 and shall be thereafter retained as such.

Reason: In the interests of visual amenity and to preserve the significance of a designated heritage asset and to accord with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan, and Policies within Chapters 12 and 16 of National Planning Policy Framework.

5. The new shop front and door frame shall be aluminium of a black colour finish which shall thereafter be retained.

Reason: In the interests of visual amenity and to preserve the significance of a designated heritage asset and to accord with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan, and Policies within Chapters 12 and 16 of National Planning Policy Framework.

6. No activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 09.00 and 18.00 Monday to Sunday including bank holidays.

Reason: In the interests of residential amenity in relation to noise and disturbance at unsocial hours and in accordance with Kirklees Local Plan Policies LP24 and LP52 and Chapters 12 and 15 of the National Planning Policy Framework.

7. The bin store and associated screen fencing as indicated on approved drawing no. 22/2875/FS4 with detail of the screen fencing and gate specified on drawing no. 22/2875/FS3, shall be constructed/erected in accordance with the details shown on these plans before the building is first brought into use. Thereafter this area shall be retained for the storage of bins with screen fencing in accordance with the approved details.

Reason: In the interests of the free and safe use of the highway and visual amenity and to accord with Policies LP21 and Lp24 of the Kirklees Local Plan and Policies within chapter 9 of the National Planning Policy Framework

8. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by

the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

Footnote

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021.

Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers,*

Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire

Pollution Advisory Group

Footnote

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.

Noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays

Footnote

Public byway Huddersfield 351 is adjacent to the development must not be interfered with or obstructed, prior to, during or after development works. The Council's public rights of way unit may be contacted by telephone 01484 221000 and ask for Sharon Huddleston. Public rights of way are based at Flint Street, Fartown, Huddersfield HD1 6LG and the email address is Sharon.huddleston@kirklees.gov.uk.

Footnote

The Applicant is advised to note that this planning permission does not override any ownership rights to any land outside of the site boundary nor does it convey any authority to enter onto such land or into any building upon it. This should be sought from the Landowner.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Existing & proposed floor plan	22/2875/FS1	24.10.22
Existing Elevations	22/2875/FS2	24.10.22
Proposed Elevations	22/2875/FS3	24.10.22
Proposed roller shutter details Location Plan 1:1250 & site plan 1:500	22/2875/FS4	2.11.22

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The Case Officer did not undertake any negotiations with the applicant due to the application being acceptable in its submitted format.

Recommendation and Authorisation Box

Report Dated:

13.1.23

Coal – low risk

