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:	**2023/62/90854/W**
Site Address:	21, Bath Street, Huddersfield, HD1 5BQ
Description:	Alterations to convert basement to one flat and formation of parking space [within a Conservation Area]
Recommending Officer:	Tom Hunt

DECISION - REFUSED

I hereby authorise the refusal 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: 12th July 2023

Officer Report

Site Description

21 Bath Street, Huddersfield, is a mid-terrace stone built dwelling set over four floors, including a basement. To the front/Bath Street is a small, lawned area, stone boundary wall and stone posts, to the rear/Rook Street there is a hard surface parking area whereby 4 vehicles park. On site parking appears to be provided to the rear of the site, whereby access is taken onto Rook Street. Both streets are narrow with time restricted parking on single yellow lines so off street parking areas appears cluttered and oversubscribed with 4 vehicles to some properties parking areas.

Surrounding the site is predominantly residential in character, along with the A62 (Castlegate) to the North. The site is also situated within Huddersfield Town Centre and its Conservation Area on the Kirklees Local Plan.

Description of Proposal

The application seeks permission for the conversion of the basement into a Self-contained flat, associated car park space and external alterations.

Internally, the new flat would have a floor space of 51 sq. m and will provide an open plan kitchen/living room, bedroom, bathroom, home office, shower-room and storage space.

In detail, external alterations include expansion of the existing lightwell to Bath Street 2.623m by 3.335m and 2.5m deep to have a large window serving as a fire escape. The lightwell would be lined with stone and to the outside 1.1m guardrails would be installed to either side of the lightwell. The front space would retain some very limited lawn and would have new soft landscaping such as wildflowers, etc within the lightwell.

The rear of the property facing Rook Street has existing external steps leading to the basement from the parking area; to this, a lightwell would be created with paving to provide external amenity space with limited soft landscaping. This would be ~ 2.5m by ~5.5m and ~2.6m deep. This would use stone to line the lightwell. The existing door and window would be replaced and slightly altered with a larger window. This would serve an open plan kitchen/living area and as the entrance.

All fenestration is to have stone head and cills.

There would be a designated parking space for the use of the dwelling with the remaining parking space to be assigned to the HMO above.

Officer Note: It appears that the upper floors remain dedicated to being a HMO. In the absence of a Certificate of Lawful Development confirming

occupancy, given the present ensuites on the upper floor floors, it appears likely there could be 6 bedrooms at least.

History of negotiations/amendments received

The case officer advised the agent that the proposal could not be supported based on unacceptable level of residential amenity for future occupiers with regard to outlook. The agent requested that further supporting evidence be considered.

Received updated plans showed car parking layout and also included a CGI representation of expected outlook from window.

Relevant Planning History

2021/94460 – Conversion of basement into separate dwelling, formation of an increase lightwell and an associated carpark space within the garden of the host dwelling with external alterations [within a Conservation Area]. Refused.

Appeal: APP/Z4718/W/22/3298281. Dismissed.

Officer note: For a smaller scheme, the proposed development was assessed to not provide acceptable living conditions for future occupiers with regard to outlook and levels of light. No harm to the Conservation Area (smaller lightwell proposed).

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 which expired on: 03/05/2023
Site Notice Expired: 03/05/2023
Publicity expired: 06/05/2023
As affecting the setting of a Conservation Area.

No representations have been received.

The additional information supplied in updated parking layout and representation of outlook was not readvertised as there were no significant alterations of the proposal.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- Environmental Health – Informal discussion with the Environmental Health Officers advised that access to daylighting would be controlled by Building Regulations

The comments the Conservation Officer made on the original application are taken into account in the assessment of this application.

Policy

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

The site is in the Huddersfield Town Centre Conservation Area and close to two Grade II Listed Buildings on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP 1 – Presumption in favour of sustainable development**
- **LP 2 – Place shaping**
- **LP 13 – Town centre uses**
- **LP 14 – Shopping frontages**
- **LP 15 – Residential use in town centres**
- **LP 17 – Huddersfield Town Centre**
- **LP 20 – Sustainable travel**
- **LP 21 – Highways and access**
- **LP 22 – Parking**
- **LP 24 – Design**
- **LP 28 – Drainage**
- **LP 35 – Historic Environment**
- **LP 53 – Contaminated and unstable land**

Supplementary Planning Guidance

- Highways Design Guide SPD
- Housebuilders Design Guide SPD
- Waste Management Design Guide for New Developments (Oct 2020, v.5)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th 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.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 16 – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

1) Principle of development
2) Impact on visual amenity and heritage amenity
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g. trees/ecology
6) Representations
7) Conclusion

1 – Principle of development:

The site is located close to Huddersfield Town Centre Conservation Area and is nearby the setting of Grade II Listed Buildings at 84 Fitzwilliam Street and 9 Bath Street.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In addition, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities to pay special attention in order to preserve or enhance the character and setting of buildings or land within a Conservation Area. This relates to Policy LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment.

Furthermore, LP35 states *"development proposals affecting a designated heritage asset…should preserve or enhance the significance of the asset. In cases likely to result in…harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring…public benefits that clearly outweigh the harm"*.

This is mirrored in Chapter 16 of the NPPF of which paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

A detailed consideration of the impact on the heritage assets will be considered below.

As well as this, 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 also relevant and states that *"good design should be at the core of all proposals in the district."*

Policy LP2 states that:
"All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement."

The site is within the Huddersfield Sub-Area. The listed qualities will be considered where relevant later in this assessment.

Housing supply

Alongside the above, the proposal would also lead to the formation of one residential unit and therefore it is considered appropriate to consider the Councils housing land supply position. 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 latest published five-year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.

The Housing Delivery Test results are directly linked to part of the five-year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five year supply position. Chapter 5 of the NPPF clearly identifies that Local Authorities 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.

Paragraph 69 of the NPPF recognises that *"small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should… support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".*

Although the Local Planning Authority can demonstrate a five-year land supply, it is noted that the development of this plot would be a minor contribution to the housing supply in the district. However, the provision of housing needs to be balanced against all policies and material planning considerations considered below. Having taken into account general policies regarding the conversion of buildings, within the wider context, it has been

considered that the principle can be supported, subject to an assessment against other material planning considerations below.

2 –Impact on heritage and visual amenity:
Having reviewed the submitted plans, it has been noted that the only external alterations would be to increase the size of existing light wells to the elevations on Rook Street and Bath Street and to have railings, new fenestration and replacement door.

The rear hardstanding given over to parking would be unaffected, with a designated parking space for the use of the occupants which would appear unchanged in use and would not have an additional impact on the wider amenity.

In terms of the light wells, officers have noted that there are examples of existing light wells to neighbouring properties' principal elevations. The agent had supplied photographic evidence of existing examples, one of which on 28 Bath Street could be described as of similar scale and size to the proposed with guard railings but without the proposed landscaping. The other existing examples all have gravelled or hard surfacing to them. The lightwells would have high quality stonework to their surrounds to aid in visually integrating the design to the host and the Conservation Area.

With reference to the previous Appeal Decision on the site, Officers take into consideration that the then proposed lightwells were not considered to be prominent in the streetscene, however the present proposal is for a substantially larger alteration to the front and rear amenity spaces to aid outlook and to reduce the feeling of enclosure for potential occupants. The proposed soft landscaping may offer a welcome softening effect compared to the streetscene's hard landscaping within its existing lightwells. Viewing the streetscene, whilst there are not many lightwells of the same proportions as proposed, this would not add any obtrusive bulk and massing within the streetscene and would not appear out of keeping in the area sufficiently to be acceptable. This also takes into account the Inspector's assessment in the previous appeal decision.

The new larger fenestration would not be in keeping with the historic proportions of the host's fenestration and would be exposed visually by the larger lightwells appearing as discordant alterations to the host building in particular. Officers take into consideration whether 'similar appearance' of replacement windows would definitively allow windows of significantly different proportions and styles to the host to be installed, or whether this would be classed as development within S55 of the Act. Whilst it would fail to respect the original historic proportions of the host's own fenestration, being below street level and being visually screened by parked vehicles on Rook Street, the proposed design would not significantly impact visually on the character and appearance of the Conservation Area.

In a finely balanced assessment, Officers conclude that the use of high-quality materials in natural stone and metal railings, the discreet and visually

unobtrusive lightwells below ground level could be considered to have a neutral impact on Huddersfield Town Centre Conservation Area and nearby Listed Buildings. It would therefore not require public benefits in accordance with LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF. It would also be in accordance with Policy LP24 of the Local Plan, and Chapter 12 of the NPPF

3 – Impact on residential amenity:

Section B of Policy LP24 of the Kirklees Local Plan states that alterations to existing buildings should:

"provide a high standard of amenity for future and neighbouring occupiers."

Further to this, Paragraph 130 of the National Planning Policy Framework 2021 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users. The Housebuilders Design Guide SPD has been used as an additional guide on residential amenity taking into consideration Principles 6 (residential amenity to neighbours), 16 (internal space standards) and 17 (access to private, functional and proportionate outside spaces).

The proposed development would include the enlargement of two existing lightwells with some permeable metal railings above ground which would therefore have no material impact upon the amenity of the neighbouring properties in terms of overbearing and overshadowing. The oblique views, screening effects of the boundary wall/the vehicles parked adjacent and the limited outlook from windows below ground level to opposite neighbouring properties would be sufficient to ensure no further impact on loss of privacy or overlooking despite the existing proximity of residential properties' fenestration. The use will also still be retained as residential and therefore no further noise concerns have been raised.

Officers have significant concerns over the impact of the development on achieving high standards of amenity for future occupiers, in particular outlook. This was raised with the agent and in response CGI images were submitted demonstrating an outlook of 1/3rd of the window to be the street level and 2/3rds appearing as either stone wall or grass/stone wall. There would be two proposed designated parking spaces positioned away from the Rook Street elevation and lightwell however the current arrangement of the four vehicles presently parked within the current Rook Street 'amenity' area may indicate that this would have some visual impact on outlook with the vehicles' bulk parked obstructing the view with visual clutter and adding to a sense of visual enclosure for the occupiers. The boundary wall to the Bath Street front amenity space would additionally have this effect.

A Daylight Assessment has been supplied indicating that the property would have minimum average levels of daylighting to rooms served by the expanded fenestration; it does not elaborate on how the conditions are met in real life

taking into consideration the likely impact of the bulk and massing of the vehicles parked close to the southern window on Rook Street. It is still considered that the proposal would lead to an overdependence on artificial lighting combined with very limited outlook towards deep lightwells detrimentally affecting living conditions. Officers accept that acceptable daylighting conditions would be controlled by Building Regulations however the cumulative effects of the unacceptable outlook with minimal natural daylighting would likely lead to the accommodation being an oppressive space and would fail to provide high standards of residential amenity for future occupiers.

The amount of internal space for the 1b2p residential unit is considered adequate so as to provide a good standard of amenity when considering Nationally Described Space Standards. This would comply with Principle 16 of the SPD.

There would not be sufficient useable outside amenity space for privacy or use for the future occupiers however this is within a sustainable location close to several facilities, amenities and services and the lack of adequate amenity space would be considered a common feature of accommodation in the area. Officers recommend that this could be considered acceptable taking into account the site limitations and be in general compliance with Principle 17 of the SPD.

When considering the unacceptable impacts on residential amenity for future occupiers of No. 21 Bath Street in relation to unacceptable outlook impacting on residential amenity, the proposal is therefore contrary to Policy LP24b) of the Kirklees Local Plan, and the Government guidance contained within Chapter 12 of the NPPF.

4 – Impact on highway safety:

Turning to highway safety, Policies LP21 and 22 of the Kirklees Local Plan, Principles 5, 11 and 12 of the Housebuilders Design Guide SPD, the Highways Design Guide SPD and Chapter 9 of the NPPF have been considered along with the KC Highway Design Guide.

The Highways Design Guide advises that dwellings should have sufficient off street parking spaces to meet need and to ensure on-street parking impact is limited. The proposal would designate a parking space for the use of the occupier to the hard surface parking area adjacent to Rook Street and would meet minimum requirements for this unit. It would have one parking space for the use of the 6-bed HMO above. Parking is currently oversubscribed in the area with nearby streets protected by traffic regulation orders however the proximity of public transport and facilities in the town centre could adequately support car free travel.

Officers remain unconvinced that the proposal to reduce off-street parking from 4 parking spaces to two parking spaces, one of which would be dedicated to a 6 bed HMO, would not adversely affect the existing parking

spaces within the site and intensify use. The previous proposal had consulted the Highways Development Officer who was supportive of the potential impact and there had been no significant alteration in this proposal with relation to parking since. The sustainable location of the site was considered sufficient to address potential issues with parking.

As such, given the above, the scheme had been considered acceptable from a highways perspective, although additional detail would be required regarding waste collection and storage for the new flat should Officers be minded to support the proposal. A further condition would also be required in order to ensure that the driveway would be laid and hardened in a permeable surface. This is to accord with the aims of Policies LP21, LP22, and LP28 of the KLP and Chapter 14 of the NPPF.

5 – Other matters:

Climate Change
When determining planning applications the Council will use the relevant Local Plan policies, NPPF and guidance documents/SPDs to embed the climate change agenda and to achieve 'net zero' carbon emissions by 2038. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.
Coal Risk
The site is situated within a High Coal Area for development on the Council's internal database and therefore the Coal Authority had been formally consulted on the previous application (ref: 2021/94460). In the response it was confirmed that a requirement to supply a Coal Mining Risk Assessment for the limited scope of the development would not be considered necessary and they did not object to the proposal.
However, in the event that approval could be accepted, a note would be attached to the decision notice to make the applicant aware that the site lies within an area that has been defined as containing potential hazards arising from former coal mining activity. This is to accord with Chapter 15 of the NPPF and Policy LP53 of the KLP.
Drainage
The site is within a low probability Flood Risk Zone and therefore if Officers are so minded to approve the application, a condition would be placed to ensure that the additional parking spaces would be drained sufficiently and/or made permeable in accordance with Policy LP28 of the Kirklees Local Plan, the Highways Design Guide SPD and Chapter 14 of the NPPF.
Biodiversity
The site is not within a sensitive area for biodiversity and is of limited works to an existing building at basement level and as such would not be required to supply biodiversity net gains to comply with LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and Chapter 15 of the NPPF.
6 – Representations:

No representations had been received.

7 – Conclusion:

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation **Refuse**

Decision Authorisation - Delegated Powers

Application Number: 2023/90854

Officer Recommendation: Refuse

Reasons

1. The habitable room windows to serve the proposed basement dwelling would, by reason of their relationship with existing ground levels, experience severely restricted and unacceptable outlook which would not achieve a high standard of amenity to future occupants of the dwelling. This would be contrary to the aims of the National Planning Policy Framework paragraph 130(f) in Chapter 12, and Policy LP24(b) of the Kirklees Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location and Existing Floor Plans.	Drawing No. 001.	H	30/06/2023
Proposed Block Plan & pre-existing lightwell examples.	Drawing No. 004.	G	21/03/2023
Existing and Proposed Elevation and Section Plans.	Drawing No. 003.	G	21/03/2023
Proposed Site, Floor and Parking Layout.	Drawing No. 002.	H	30/06/2023
Internal CGI Image demonstrating expected outlook.	Drawing No. 005.	H	30/06/2023
Daylight and Sunlight Assessment	EAL Consult	Rev II Feb 2023	21/03/2023
Planning, Heritage and Design and Access Statement	C/0383/1, March 2023		21/03/2023

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. The applicant was approached regarding the application's likely refusal and supplied additional information to address the likely reasons for refusal. Despite this additional detail, Officers are unable to support the proposal's impact on future occupiers, for the reason stated.

Report Dated: 11/07/2023