

**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:	<b>2023/62/91421/E</b>
Site Address:	17, Market Street, Heckmondwike, WF16 0JY
Description:	Change of use and alterations from two flats and one retail unit to form six bedsits and the retention of one retail unit
Recommending Officer:	Nina Sayers

**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.**

Emma Thompson

***AUTHORISED OFFICER***

**Date:** 20.7.23

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## **Officer Report**

### **Site Description**

17 Market Street, Heckmondwike, WF16 0JY

The application relates to 17 Market Place, a three-storey, semi-detached property in Heckmondwike. The property currently serves a retail unit on the ground floor and two flats on the first and second floors. The property fronts the highway and there is a small yard area to the rear.

The area surrounding the property serves a mixture of residential and commercial units which all vary in design. The site is located within Heckmondwike Town Centre and within the Strategic Green Infrastructure Network. The site boundaries a small open space as allocated within the Kirklees Local Plan. The property is not within a conservation area and is not listed.

### **Description of Proposal**

The applicant is seeking permission for the change of use and alterations from two flats and one retail unit to form six bedsits and the retention of one retail unit.

The proposed development would retain the existing retail unit within the front section of the ground floor. The scheme would convert the remaining property into 6 bedsits, spread across the basement (one bedsit), ground floor (one bedsit), first floor (two bedsits) and second floor (two bedsits). Each bedsit would serve a bedroom with kitchenette and an ensuite.

The exterior of the property would remain largely unaltered, however there would be an additional opening installed in the basement level of the rear elevation and there would be 12 additional openings installed on the northern side elevation.

### **History of negotiations/amendments received**

No amended plans were sought or provided.

### **Relevant Planning History**

94/93518 Variation of condition 4 relating to number of children on previous permission 83/62/06365 for use of part of dwelling for day nursery  
2000/93461 Outline application for demolition of existing fish shop and erection of building to form up to four flats. Conditional outline permission.  
2008/04370 Erection of conservatory. Conditional full permission.

It is apparent from historic street imagery that the 'shop' unit has previously been used as a hot-food takeaway. The LPA have no record of planning permission for this change of use being granted. In accordance with Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), separate planning permission would be required if the applicant wished to use the property as a hot food takeaway.

## **Representations**

The application was advertised by neighbour letter and was publicised online. Final publicity expired 5<sup>th</sup> July 2023.

Three representations were received in response to the above consultation. Two in objection and one in support. They made the following comments:

- Overlooking to play area at adjacent nursery. Concerns regarding safeguarding and child protection.
- Building was previously used as a restaurant and take away – never had approved residential use.
- No vehicle parking.
- Limited street lighting so the access is dangerous.
- Fire risk due to internal stairway.
- Prejudicial to local businesses.
- Garage next door has previously been on the Police rota recovery scheme. This would cause noise and disruption to future occupants.
- Future occupants could be disturbed by neighbouring commercial properties.
- No permission would be given for scaffolding on the side elevation to install the windows.
- Mess and noise would disrupt neighbouring nursery.
- Bin refuse would take up a large amount of space in the rear yard.
- Property is in need of modernisation.
- Property is too large to just be a shop.
- Similar properties and uses in the surrounding area.
- There is existing residential use in the property so there would not be additional overlooking harm.
- There are existing properties overlooking the adjacent nursery.
- Comments regarding the independent circumstances of the objector.
- The development is in line with existing development.

It is noted that the supporting comment received has been submitted by the applicant.

The above representation will be discussed in section 6 of this report.

## **Consultation Responses**

KC Environmental Health – requested additional information.

KC Designing Out Crime Officer – no objections.

KC Waste Strategy – no comments.

KC Building Control – no comments.

## **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 27<sup>th</sup> February 2019). The Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), both require development to be considerate in terms of the character of the host property and the wider street scene.

The site is located within Heckmondwike Town Centre within the Kirklees Local Plan.

### **Kirklees Local Plan:**

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP7** – Efficient and effective use of land and buildings
- **LP15** – Residential use in town centres
- **LP21** – Highways and access
- **LP22** – Parking
- **LP24** – Design
- **LP30** – Biodiversity and geodiversity

### **National Policies and Guidance**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 7 – Ensuring the vitality of town centres
- Chapter 12 – Achieving well-designed places

### **Other Material Considerations:**

- Kirklees Highways Design Guide SPD (2019).
- Kirklees Housebuilders Design Guide SPD (2021).
- National Design Space Standards

## **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

#### 1 – Principle of development:

The site is located within Heckmondwike Town Centre on the Kirklees Local Plan (KLP). National Planning Policy Framework (NPPF) Chapter 7, paragraph 86: *f) recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.*

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. The proposal is for change of use and alterations from two flats and one retail unit to form six bedsits and the retention of one retail unit at 17 Market Street.

Policy LP15 provides guidance for the development of residential uses within defined town centres. Paragraph 9.25 states that ‘the principle for the provision of residential accommodation in town centres is supported provided it does not lead to an adverse impact on the operation of the towns retail core or would reduce space for other main town centre uses if outside of the primary shopping area’.

Policy LP15 outlines that proposals for residential uses (including student accommodation) within the defined town centres as set out on the Policies Map will be supported subject to:

- a) the protection of primary shopping areas, primary and secondary shopping frontages, and space for other main town centre uses within the defined centre. Residential proposals in these areas shall normally only be permitted on upper floors, and shall not prejudice existing established uses;
- a) the protection of the character of the centre, and the local street scene. Proposals should retain and enhance the design and heritage features of buildings;
- b) the protection and retention of existing ground floor uses and active frontages both within and outside the primary shopping area,
- c) the protection of the amenity of existing residents and future occupiers of the proposed residential use in accordance with amenity and design policies within the plan, and will in particular consider matters such as privacy, noise and air quality;
- d) the provision of space for the storage of sustainable modes of transport such as bicycles, where appropriate charging points of electric vehicles, and access to public transport;

- e) the provision of space for vehicular parking which is appropriate to the scale of the proposal, particularly where it would otherwise cause highway and pedestrian safety concerns;
- f) provision of affordable housing in accordance with policies set out in the Local Plan; and
- g) the provision of refuse storage and collection

The application site is not located within the primary shopping area or within a primary shopping frontage. The proposal relates to a street which hosts a variety of residential and commercial uses. The proposed use would retain the ground floor shop frontage and there would be no external work to the façade of the building. Therefore, the proposal is considered to comply with sub-paragraphs a), b) and c) of LP15 as well as Chapter 7 of the NPPF.

Officers have some concerns regarding the proximity of the future occupants to commercial units and therefore a full assessment of the impact on residential amenity will be undertaken in section 3 of this report to determine if the proposal complies with sub-paragraph d) of LP15.

There is a bus stop located directly outside the property and the application site is ~150m south of Heckmondwike Bus Station. Therefore, there is considered to be adequate public transport links to facilitate additional residential use. There is no parking provision at the site however, given the application is located within a defined town centre, and due to the local transport links, this is considered acceptable in this instance. There would be sufficient space in the rear yard for storage of refuse. Therefore, the scheme complies with sub-paragraphs e), f) and h) of LP15.

Whilst the proposed retail use would be retained, the existing arrangements serve a large storeroom in the basement and a kitchen on the ground floor which would be removed as part of the scheme. Therefore, officers have concerns regarding the practicality of the proposed shop, with additional bedsits.

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

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.

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. However, LP7 also states that 'higher densities will be sought in principal town centres and in areas close to public transport interchanges'.

In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring inter alia that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

In this case, subject to the compliance with sub-paragraph d) of LP15 of the Kirklees Local Plan, the principle of development could be considered acceptable. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

## 2 – Impact on visual amenity

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.127 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district.

The proposed development would involve minor works to the exterior of the property. The front elevation would remain unaltered, and the rear elevation would include an additional door and window at basement level. This would align with the existing openings in the rear elevation and given that it would be below ground level and to the rear, it would not be in a prominent location.

There would be significant additional openings proposed to the existing blank side elevation to allow for windows to the proposed bedsits. Due to the design and siting of the existing property, the side elevation is in a prominent position within the street scene and town scape. It is adjacent to a small open space which provides a seating area within Heckmondwike Town Centre, adding to the prominence of the elevation. The proposed windows would appear clustered and would harm the visual amenity of the host building and wider street scene at the detriment of the town scape.

Having taken the above into account, the proposed development would cause significant harm to the visual amenity of the host property, the wider street scene or character of the townscape, failing to comply with Policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.

### 3 – Impact on residential amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of policy LP24 (b), which states that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers as well as paragraph 130 (f) of the NPPF which states that developments should “*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*”.

As outlined above, LP15 d) of the Kirklees Local Plan requires developments for residential accommodation in a defined town centre to protect the amenity of existing residents and future occupiers.

The proposal would serve one retail unit and 6 bedsits. The proposed bedsits would be spread across all 4 floors of the property, including basement level, and would have openings in the front, side and rear elevations all serving inhabited spaces. The openings in the front elevation would face 10 and 12 Market Street, both of which are commercial properties which do not appear to have any residential accommodation. Whilst it is noted that there could be some potential overlooking harm to future occupants from the neighbouring commercial properties, which was also raised in representations, given the existing property serves residential accommodation on the first and second floor, no further material harm is considered to be caused over and above the existing arrangement.

To the rear of the site is an industrial unit which does not appear to have any openings in the elevation facing the application site. Therefore, no overlooking harm would occur. There is a Nursery adjacent to the site which has a play area to the rear. Concerns regarding overlooking harm and issues regarding safeguarding of this site were made by representation. Whilst officers acknowledge these concerns, given the existing property has openings in the rear elevation serving inhabited residential space, no additional harm is considered to be caused over and above the existing arrangements on site.

The proposed openings in the side elevation would face directly onto an open green space which serves seating for members of public. This would include an opening at ground floor level which would serve a primary inhabited space. Therefore, it is considered that the proposal would result in significant overlooking harm to the future occupiers of bedsit no.2 as labelled on the proposed floor plans.

The bedsit located within the basement (labelled as bedsit no.1 on the proposed floor plans), would have two windows within the most easterly elevation, whilst this would provide some light to the kitchen area it would be set down from ground level and behind a stairway, therefore sufficient natural light would not be provided to these windows and the outlook would be minimal. There would be no openings serving the bedroom area, which is set to the front of the property, so there would be no natural light or outlook to this primary inhabited space. This would be detrimental to the amenity of any future occupiers.

The proposed development is within a town centre area so there is potential for noise pollution from multiple commercial premises nearby and the high volume of traffic, which could have a significant impact on the amenity of future occupiers. Therefore, KC Environmental Health have requested an assessment of all significant noise sources likely to affect the proposed development including proposed attenuation measures. In this instance, this has not been requested as the proposed development has a large number of issues which render the proposal unacceptable. Should approval be recommended this information would need to be provided prior to determination.

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.”*

The proposed bedsits all fail to meet the minimum recommendations for internal floor areas as set out within the Nationally Described Space Standards for the number of bedrooms they serve. The NDSS sets the minimum recommendation, and it is considered, in this instance, that the proposed floor space and layout would not provide adequate living space for future occupants which would be at the detriment of future occupiers, which is contrary to LP24 of the Kirklees Local Plan or paragraph 130 of the NPPF. There would also be very limited amenity space within the curtilage of the property. Due to the constraints of the site, there is a no provision for more amenity space to be provided within the site.

Officers also have significant concerns regarding the ‘shop’ unit as there is evidence to suggest this has been used as a hot food takeaway. Officer would have significant concerns regarding the impact of a hot food takeaway on future occupants and neighbouring residents, particularly in terms of odour and noise pollution. As outlined in the planning history section of this report,

change of use from a retail to a hot food takeaway would require a separate planning application.

It is therefore considered that cumulatively the impact of the new openings and resulting overlooking harm, significant noise pollution, lack of natural light and outlook, insufficient floor space, lack of amenity space and potential odour pollution, would result in a substandard level of amenity for future occupiers. This fails to comply with LP24 and LP15 d) of the Kirklees Local Plan, chapter 12 of the NPPF and the Housebuilders Design Guide SPD.

#### 4 – Impact on highway safety

The site is accessed via Market Street. No off-street parking provision has been provided and there is restricted on street parking. The site is ~150m south of Heckmondwike Bus Station and there is a bus stop directly outside the property. Given the proximity to public transport links and as the site is located within Heckmondwike Town Centre, the lack of parking provision is considered acceptable in this instance. Bin storage and collection points have not been proposed within the site. In this instance, this has not been requested as the proposed development has a large number of issued which render it unacceptable. Should approval be recommended this information would need to be provided prior to development commencing and satisfactory provision being made.

Therefore, the proposal scheme is considered to comply with the recommendations in the Highways Design Guide and policies LP21 and LP22 of the Kirklees Local Plan.

#### 5 – Other matters

##### *Land contamination*

The proposed development is situated on land that has been identified as potentially contaminated due to its former use. However, the site is already established as residential/commercial property and it would appear groundworks will be minimal, Kirklees Council Environmental Health therefore recommend a condition regarding unexpected contamination. Therefore, should approval be recommended, a condition would be added requiring, at minimum, a Phase I preliminary risk assessment. Conditions for the subsequent phases of contaminated land management would also be added.

##### *Ecology*

The site is not within a bat alert layer and therefore it is unlikely that protected species are present within the site, and the proposed external works would be minimal. However, Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design Guide SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of bird box on the proposed development would be recommended as a condition should permission be granted.

There are no other matters for consideration.

## 6 - Representations

Three representations were received in response to the above consultation. Two in objection and one in support. It is noted that the supporting comment received has been submitted by the applicant. The following comments were made:

- Overlooking play area at adjacent nursery. Concerns regarding safeguarding and child protection.

*Response: Overlooking harm is a material planning consideration that has been carefully considered in the residential amenity section of this report.*

- Building was previously used as a restaurant and take away – never had approved residential use.

*Response: Officers are aware of the site history and the site restrictions, and this has been taken into consideration during the assessment of this application.*

- No vehicle parking.

*Response: This is a material planning consideration that has been carefully considered in highways safety section of this report.*

- Limited street lighting so the access is dangerous.

*Response: This is not a materially planning consideration for a development of this scale and nature.*

- Fire risk due to internal stairway.

*Response: This is not a material planning consideration for a development of this scale and nature. This would likely be a matter for building regulations stage of development.*

- Prejudicial to local businesses.

*Response: This is a material planning consideration that has carefully been assessed in the principle of development and residential amenity section of this report.*

- Garage next door has previously been on the Police rota recovery scheme.

*Response: This is not a materially planning consideration for a development of this scale and nature.*

- This would cause noise and disruption to future occupants.
- Future occupants could be disturbed by neighbouring commercial properties.

*Response: These are materially planning considerations that has been carefully considered in the residential amenity section of this report.*

- No permission would be given for scaffolding on the side elevation to install the windows.

*Response: the granting of planning permission does not override any private rights of ownership and it is the applicants responsibility to ensure they have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside their ownership.*

- Mess and noise would disrupt neighbouring nursery.

*Response: There would only be minimal external works and therefore there is considered to be minimal impact during construction however a footnote would be added to any decision limited the construction hours.*

- Bin refuse would take up a large amount of space in the rear yard.

*Response: This is a material planning considerations that has been carefully considered in the highways safety section of this report, provision would be required in any future submission.*

- Property is in need of modernisation.
- Property is too large to just be a shop.  
There is existing residential use in the property so there would not be additional overlooking harm.
- There are existing properties overlooking the adjacent nursery.
- The development is in line with existing development.
- Similar properties and uses in the surrounding area.

*Response: These comments are all noted. Where relevant, material planning considerations have been carefully considered in officer assessment and within this report.*

- Comments regarding the independent circumstances of the objector.

*Response: This is not a materially planning consideration and therefore no further comments will be made.*

## 7 – Conclusion

This application for change of use and alterations from two flats and one retail unit to form six bedsits and the retention of one retail unit at 17 Market Street, Heckmondwike has been assessed against relevant policies in the development plan as listed in the policy section of the report, the Housebuilders Design Guide SPD, the National Planning Policy Framework and other material considerations.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and 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 considerations.

**Recommendation**

**Refusal**

## Decision Authorisation - Delegated Powers

**Application Number:** 2023/91421

**Officer Recommendation:** Refusal

### Reasons for refusal

1. The proposed development fails to ensure a high standard of amenity to future occupants. The poor service of light and outlook to the proposed rooms, along with the limited internal floor space, lack of amenity space, and overlooking harm from proposed windows, is detrimental to residential amenity of future occupiers. This would be contrary to Policy LP15 and LP24 of the Kirklees Local Plan, chapter 12 of the NPPF and the Housebuilders Design Guide SPD.

2. The proposed development due to the poorly articulated fenestration details would appear incongruous in a prominent location which would harm the visual appearance of the host building, wider street scene and the town scape of Heckmondwike Town Centre, which would be at the detriment of visual amenity. Thus, the scheme fails to comply with LP24 of the of the Kirklees Local Plan, chapter 12 of the NPPF and the Housebuilders Design Guide SPD.

3. The proposed development would intensify the occupation of sensitive noise receptors adjacent to commercial properties and busy traffic. This would result in unacceptable noise levels for which there has not been any mitigating measures proposed to protect future occupants detrimental to residential amenity contrary to Policy LP15 and LP24 of the Kirklees Local Plan, chapter 12 of the NPPF and the Housebuilders Design Guide SPD.

Plans and specifications schedule:-

Plan Type	Reference	Date Received
Location and Block Plan		24/05/2023
Existing Elevations	3	24/05/2023
Existing Floor Plans	1	24/05/2023
Proposed Elevations	4	24/05/2023
Proposed Floor Plans	2	24/05/2023
Design and Access Statement		24/05/2023
Climate Change Statement		24/05/2023

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 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. Due to the scale of problems with this proposal no amended plans were sought or provided in this instance.

Report Dated: 17/07/2023