

**KIRKLEES METROPOLITAN COUNCIL
DEVELOPMENT & MASTER PLANNING SERVICE**

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015(as amended) - Schedule 2, Part 3, Class MA**

**DELEGATED DECISION FOR PRIOR APPROVAL FOR CHANGE OF USE
FROM COMMERCIAL, BUSINESS AND SERVICE USES TO
DWELLINGHOUSES**

Reference no. 2023/CL/92103/E

Site Address	Dixon Hall And Co Ltd, Grafton Street, Batley, WF17 6AR
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Description	Prior notification for change of use from offices to 6 dwellings
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Recommending Officer	Edward Cheseldine
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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.**

Kevin Walton

AUTHORISED OFFICER

Date:25-Oct-2023

Officer Report

2023/92103 - Dixon Hall And Co Ltd, Grafton Street, Batley, WF17 6AR

Site Description

Dixon Hall & Co Ltd is a former office located in Batley. The building has rendered exterior walls that have a pebble-dash finish, which fall under a flat roof. The building stands two-stories high. It rests on Grafton Street which slopes from west to east.

Description of Proposal

Prior approval is sought to change the use of the building from offices (class E) to 6 dwellings. There will be two floors, each with three dwellings.

1. Procedural Matters

Prior notifications for the change of use of premises from Class E (commercial, business & service) to a use falling within Class C3 (dwellinghouses) are considered against the requirements as set out by the Town and Country Planning (General Permitted Development) Order 2015 (Amended) Schedule 2, Part 3, Class MA.

Limitations for Part 3, Class MA.1 Development

Development is not permitted:-

(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval	Pass: There is no evidence to suggest the building has been occupied 3 months prior to the date of the application.
(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;	Fail: The building formed part of a wider use of Dixon Hall and Co. Ltd including buildings to the south and east of the proposed building all within the same ownership. Historic maps indicate the building was once used as a warehouse and planning history suggests this was not changed. Notwithstanding this, Google Streetview imagery strongly

	suggests Dixon Hall used the larger buildings for storage of goods with an area for retail along the Bradford Road frontage. The subject building appears to be an office building serving the wider use of the site. It therefore appears the building formed part of a wider planning unit including warehousing and distribution of tools/construction products and some ancillary retail and office.
(c) The cumulative floor space of the existing building changing use under Class MA exceeds 1500 square metres;	Pass: The cumulative floor space of the existing building change use under Class MA would not exceed 1500 sq m.
(d) if land covered by, or within the curtilage of, the building— (i) is or forms part of a site of special scientific interest; (ii) is or forms part of a listed building or land within its curtilage; (iii) is or forms part of a scheduled monument or land within its curtilage; (iv) is or forms part of a safety hazard area; or (v) is or forms part of a military explosives storage area;	Pass: The development is not in any category in paragraph (d)
(e) if the building is within— (i) an area of outstanding natural beauty; (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(3); (iii) the Broads; (iv) a National Park; or (v) a World Heritage Site;	Pass: The building is not in any category in paragraph (e)
(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;	Pass: The building is not occupied under any agricultural tenancy

(g) before 1 August 2022, if— (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.	Pass: The building is not within and land affected by an Article 4 Direction.
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Condition MA.2:

In this instance the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to:

- Transport and highway impacts
- Contamination risks
- Flooding risks
- Impact in terms of noise for the future occupants from commercial premises
- the provision of adequate natural light in all habitable rooms of the dwellinghouses
- the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses

The development does not result in the loss of a health centre or registered nursery.

The development does not meet the fire risk condition.

The above details will be assessed below.

As part of the notification procedure, the Local Authority notified members of the public of the proposed development by sending neighbour notification letters to those with an adjoining boundary and allowing 21 days for objections

to be made. The Local Planning Authority shall consider any representations made as a result of the notice given.

Publicity end date 30 August 2023.

As a result of the above publicity, no representations were received.

Space Standards

Article 3(9A) of the Town and Country Planning (General Permitted Development)(England) Order (as amended) precludes any grant of planning permission where the gross floor area of any new dwelling does not exceed 37 sq metres or does not meet nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

For a 1 bedroom property of one storey the National Space Standards states that a minimum of 39 square meters of accommodation should be provided for the occupation of a dwelling. The information submitted within the application form states that the total net internal accommodation equates to 43, 45 & 47 square meters for each dwelling. As such, the property is of a sufficient size to accommodate 1 no. person. It is noted that 2 no. persons would be able to accommodate these dwellings as there are double bedrooms. However, space standards for a 1 bedroom flat for 2 person is a minimum of 50 sq metres. It would be conditioned that there is a maximum of one person per dwelling.

Assessment

Transport and highway impacts:

The site is located on a Primary A road, the location is estimated to be 65m from local shops and amenities which is considered to be an appropriate location for residential dwellings. The application site is located near a junction to the A652 Bradford Road and therefore has a well connected transport route.

To the rear of the building is an outdoor lot which is associated with the site. On the south bank of the lot is an entranceway to the adjacent site. The applicant has provided information regarding pedestrian and vehicular access to the site, parking and bin storage. Six on-site parking spaces have been marked to rear of the site. There is adequate bin storage and cycle storage provided within the site.

Submitted plans are insufficient for KC Highways Development Management to support the application. Swept paths do not show the largest vehicle likely to enter, exit and turn within the site considering the adjacent 'Dixon Hall Tools' site. There would be obstructed visibility for vehicle exiting the proposed parking area and vehicles exiting the access to the remainder of 'Dixon Hall Tools' site.

Contamination risks:

It has been identified by Kirklees Council's GIS system that the land within the site is potentially contaminated due to previous use (ref 572/5). Due to this, KC Environmental Health has recommended a condition in the case unexpected land contamination is encountered.

Flooding risk:

The site is not within Flood Zones 2 or 3.

Impact in terms of noise

As the site is in close proximity to commercial sites a noise assessment must be conducted. The applicant has submitted a Noise impact Assessment dated July 2023. KC Environmental Health reviewed the report and accepted its findings, subject to conditions.

The provision of adequate natural light in all habitable rooms of the dwellinghouse

Plans submitted within the application indicate there would be sufficient natural light. Dwellings include the provision of bedrooms, kitchen/living areas, hallways and bathrooms. All habitable rooms must have the provision of adequate natural light. Plans show habitable rooms will contain openings which allow for natural light into the living spaces.

Impact upon general or heavy industry, waste management, storage and distribution, or a mix of such uses

The application site is situated in an area that currently contains residential, commercial and retail buildings. The loss of a commercial building within the area would not unduly unbalance the area or cause unacceptable risk to the sustainability of the existing commercial operations subject to noise protection conditions.

Recommendation

The application has not been submitted with sufficient information to allow the Local Authority to support the application due to the impact on highway safety. Given the impact, the local planning authority cannot grant the permission for the application of a change of use from commercial to residential.

Recommendation: Prior Approval Refused

Decision Authorisation – Delegated Powers

Application Number: 2023/92103

Officer Recommendation: Refuse

Reason(s) for Refusal

It is considered that the application has not been submitted with sufficient information to allow the Local Planning Authority to assess the transport and highways impact.

It is also considered the building form part of a wider unit of uses formally used by Dixon Hall and Co Limited. These uses appear to include storage and distribution of construction products including tools, small plant, hardware with a retail outlet on the Bradford Road frontage. The building appears to have served as an office to the wider functions of the company including storage and distribution of goods, retail and ancillary office. Taken as a whole it is considered these uses would have formed a single planning unit as a composite mixed use falling outside Class E as defined by the Use Classes Order 1987 (as amended). The applicant has not provided sufficient information to demonstrate the proposed use of the building currently benefits from a Class E use.

As such, the proposal would fail to comply with requirements as set out by the Town and Country Planning (General Permitted Development) Order 2015 (Amended) Schedule 2, Part 3, Class MA.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan	LP01	A	17/07/2023
Proposed site plan	LP02	B	07/09/2023
Existing plans	D00	A	17/07/2023
Existing roof plan	D01	A	17/07/2023
Existing elevations 1	D02	A	17/07/2023
Existing elevations 2	D03	A	17/07/2023
Proposed floor plans	D04	A	17/07/2023
Proposed elevations 1	D05	A	17/07/2023
Proposed elevations 2	D06	A	17/07/2023
Proposed site surveys	SPA 001	A	07/09/2023
Proposed site surveys	SPA 002	A	07/09/2023
Proposed site surveys	SPA 003	A	07/09/2023

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. Swept path plans were requested on 01 September 2023 in consideration of KC Highway's comments. Secondary comments from KC Highways were received on 22 September 2023 the planning agent was given the opportunity to amend the plans further to overcome the comments, however no plans were received.