

**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:	2023/62/92156/E
Site Address:	120, Staincliffe Road, Westborough, Dewsbury, WF13 4RP
Description:	Alterations to convert lower ground and ground floor retail unit to two flats
Recommending Officer:	Nicole Helliwell

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 09 August 2024

Officer Report

Reference No. 2023/62/92156/E

Site Address: 120, Staincliffe Road, Westborough, Dewsbury, WF13 4RP

Proposal: Alterations to convert lower ground and ground floor retail unit to two flats

Site Description

The application relates to 120 Staincliffe Road, a two-storey detached property situated in Westborough, Dewsbury. The property is faced in brick and incorporates a flat roof. The building currently comprises a commercial unit at lower ground and ground floor level and a flat at first floor level. The wider area comprises a combination of residential and commercial properties of varying materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or public right of ways within close proximity.

Description of Proposal

The application seeks planning permission to convert the ground and lower ground floor retail units to two one-bedroomed flats. The proposal would see the building converted as it stands now with no external alterations.

Relevant Planning History

- **2022/93770:** Erection of first floor front extension and alterations to roof. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2022/91042:** Erection of pitched roof to replace existing flat roof. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2004/90600:** Change of use of shop to hot food takeaway. [Planning application details | Kirklees Council](#) - Refused

Representations

The application was publicised by neighbour notification letters, which expired on 3rd October 2023. As a result of the above publicity, no representations have been received.

Consultation Responses

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

[KC Highways Development Management](#) – No objection

Planning Policy Background

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

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 11** - Housing Mix and Affordable Housing
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 26** - Renewable and Low Carbon Energy
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

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 5** - Delivering a Sufficient Supply of Homes
- **Chapter 9** - Promoting Sustainable Transport
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Other Guidance Documents:

- Highways Design Guide SPD (adopted 4th November 2019)
- Housebuilders Design Guide (2021) - Nationally Described Space Standards
- National Design Guide

- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

Assessment

1. Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

Paragraph 11 of the National Planning Policy Framework (NPPF) advises that plans and decisions should apply a presumption in favour of sustainable development. It adds, within the same paragraph, that where the policies in the Development Plan, deemed most relevant to the consideration of the proposal in question are out-of-date, the default position is that planning permission should be granted unless:-

- a) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
- a) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In the case of applications for residential development such as this, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land.

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 2023 up-date of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year

supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF Paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

The Council’s inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers assessment.

It is considered that the development proposed by this application could reasonably be viewed as meeting the housing needs of the Council. This would be ‘in line’ with the aims of Chapter 5 of the NPPF, which states that small developments such as this can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Furthermore, Policies LP3 and LP11 of the adopted Local Plan in part support development schemes that provide housing of a type and mix that meets identified need in the District.

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, the principle of development is considered acceptable, and 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.

1. Impact on Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states: *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Kirklees Local Plan Policies LP1, LP2 and LP24 all seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. Policy LP24 states that proposals should promote good design by ensuring: *“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”*

The submitted plans confirm that no external alterations are proposed as part of the application. On this basis, it is considered that the proposed alterations would not have any significant visual impact on the character and appearance of the surrounding area.

It is therefore considered that, the proposal would not cause detrimental harm with regard to visual amenity and would accord with the aims of Policy LP24 of the Kirklees Local Plan, the Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.

2. Impact on Residential Amenity of Neighbouring Residents

Sections B and C of Policy LP24 state that alterations to existing buildings should: *“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”*

Further to this, Paragraph 135(f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

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

The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

The proposed development would not include any exterior alterations to the building and therefore the proposal would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the existing arrangements on site.

Having considered the above factors, the development proposed would have an acceptable impact upon the residential amenity of the neighbouring occupants and would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, KDP 6 & 16 of the Housebuilders Design Guide SPD and Paragraph 135 (f) of the National Planning Policy Framework.

3. Impact on Residential Amenity of Future Occupiers

Consideration must also be given to the amenity of future residents of the proposed dwelling. Taking into account Principle 16 of the Kirklees Housebuilders Design Guide SPD which sets out that:

'All new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations' and that 'All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity and living environments for future occupiers in accordance with Policy LP24'.

National described space standards require the following gross internal floor area for a one storey flat:

- 1 Bedroom, 1-person dwelling set over 1 storey - 39 square metres
- 1 Bedroom, 2-person dwelling set over 1 storey - 50 square metres

National described space standards require the following gross internal floor area for a two storey flat:

- 1 Bedroom, 2-person dwelling set over 2 storey - 58 square metres

The proposed floor plans show that the duplex flat would have one bed space and therefore is required to have an internal floor space of 58m². The proposal is shown to have an internal floor space of 43.4m² which would fail to accord with the national described space standards. Furthermore, the proposed floor plans show that the one storey flat would have one bed space and therefore is required to have a minimum internal floor space of 39m². The proposal is shown to have an internal floor space of 34.6m² which would also fail to comply with the national described space standards. Therefore, it is considered that the proposal would provide an unacceptable standard of living for future occupants and would fail to accord with LP24(b) of the Kirklees Local Plan, Principles 6 and 16 of the Council's Housebuilders Design Guide SPD, and Paragraph 135 (f) of the National Planning Policy Framework.

4. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

This application seeks approval to convert the lower ground and ground floor retail unit to two flats at 120 Staincliffe Road. As such, KC Highways Development Management have been formally consulted as part of the application, as the proposal would intensify the domestic use at the site.

In this instance, the existing use of the building is as a shop at ground and lower ground floor with a 2 bedroom flat at first floor level. This proposal would keep the existing 2-bedroom flat meaning that in total there would be three apartments consisting of two 1-bedroom flats and one 2-bedroom flat. There is off street parking for approximately four vehicles to the northern side and part of the western side of the building which meets the guidelines for parking. There is also further space for parking on the lower ground to the west of the building. Therefore, the proposal is considered acceptable to Highways Development Management.

It is noted that only one dropped kerb is provided on Green Lane to allow vehicle access onto these areas. Therefore, additional dropped kerbs should be provided at the vehicle access onto Staincliffe Road and the adjacent access to lower ground floor. It should be noted that any changes

to the access within the adopted highway fronting the property to provide a dropped kerb would need to be completed via a Section 184 agreement with the Council.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 12 and 19 in the Council's Housebuilders Design Guide SPD, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

5. 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 predates 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.

In this instance, the proposal seeks to convert the existing building, therefore, it would support sustainability objectives. Given the circumstances, the applicant does not need to demonstrate further measures to combat climate change. However, there are controls in terms of Building Regulations, which will need to be adhered to as part of the construction process and which will require compliance with national standards.

There are no other matters considered relevant to the determination of this application.

6. Representations

No representations were received during the course of the application.

7. Negotiations

The Case Officer undertook negotiations with the agent to secure amended plans. Revised plans were received during the course of the application. However, the amendments made were not considered adequate to overcome these issues relating to occupier amenity.

8. 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.

As set out above, 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.

Recommendation: Refuse

Decision Authorisation - Delegated Powers

Application Number: 2023/92156

Officer Recommendation: Refuse

Reasons for Refusal

1. The proposed lower ground and ground floor flats would fail to accord with the Nationally Described Space Standards and would provide an unacceptable standard of living for future occupants. The proposal would be contrary to Policy LP24(b) of the Kirklees Local Plan, Principle 16 of the Council's Housebuilders Design Guide SPD, and Paragraph 135(f) of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	22-5028	-	24/11/2023

Plan Type	Reference	Revision	Date Received
Proposed Site Plan	22-5028	A	24/05/2024
Existing and Proposed Floor Plans	22-5028	B	24/05/2024
Climate Change Statement	-	-	24/11/2023

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. The Case Officer undertook negotiations with the agent to secure amended plans. Revised plans were received during the course of the application. However, the amendments made were not considered adequate to overcome the issues relating to occupier amenity.

Report Dated: 08/08/2024