

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS - REGULATION 3 TOWN AND COUNTRY PLANNING GENERAL REGULATIONS 1992 (AS AMENDED)

Reference No: **2023/48/92381/W**

Site Address: 1 - 7 Browning Road, Deighton, Huddersfield, HD2
1HU

Description: Alterations to convert existing shops with flats above
to 4 dwellings including associated landscaping works
to the front

Recommending Officer: Liz Chippendale

DECISION – Grant Permission under Regulation 3

**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: 10-May-2024

1-7 Browning Road

Site Description

The application site is an existing row of retail units at ground floor with flats above located on the corner of Browning Road and Riddings Road, Deighton. The units have been vacant for some time and appear run down.

The curved site is elevated from the highway and accessed via a ramp and stairs to a tarmacked area to the frontage. There are existing gates to the east and west to access the rear garden which is overgrown.

There are 2 no single storey outbuildings to the rear which are each separated into 2 no. stores with access.

The site is set within a predominantly residential area with two storey, terraced dwellings to all elevations.

The application site is Unallocated land as designated within the Kirklees Local Plan.

Description of Proposal

The application is sought for the change of use of four 4-bedroom first floor flats with four retail units at ground floor to 4no. four bedroom dwellings. All four units would be affordable homes.

The existing shop frontages will be replaced with domestic windows in line with the window placement at first floor and shop signage removed. The porch shelter will be retained and one entrance door replaced. The rear elevations will be retained as existing with replacement window and doors.

The proposed dwellings will hold a living room, kitchen and utility with WC at ground floor with four bedrooms and bathroom at first floor.

The outbuildings to the rear will be made good and retained for external storage for occupants.

The frontage will remain as existing with the addition of a fence to create a defensible space to the frontage of the units. A bin store/collection point is proposed to the top of the existing ramp.

The site does not offer any off-street parking.

Proposed boundary treatments:

- 1.5m hit and miss timber fence with 0.3m trellis between gardens
- 1.5m hit and miss timer fence to neighbouring boundary
- 0.9m metal railings black flat top metal railing to frontage of dwellings
- 1.25m hit and miss fencing to bin store/collection point.

History of negotiations/amendments received

The applicant entered into the following negotiations/amendments throughout the course of the application:

- The submission of a bat scoping survey following comments from KC Ecology.
- Amended plans were submitted to show amended bin storage/collection points, boundary treatments and the retention of the outbuildings to the rear.
- Amended block plan was submitted to show the retention of outbuildings.

Relevant Planning History (including enforcement history)

7 Browning Road

2019/91920	Change of use of shop to laundrette Withdrawn
2008/94216	Change of use to Hot food takeaway Conditional full permission
86/05440	Change of use from shop and dwelling to tenant's centre and office Conditional full permission
89/06671	Change of use of tenant's centre and office to tenants centre and office, provision of hot food and sale of second hand clothing. Conditional full permission

1 Browning Road

2006/94556	Formation of new shop frontage Conditional full permission
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Representations

The application was advertised via neighbour letter which expired on 27th September 2023.

No representations were received.

Consultation Responses

Statutory:

K C Highways Development Management – *No objection.*

Non-Statutory:

K C Environmental Health – *No objection subject to condition*

K C Ecology – *No objection subject to condition*

K C Trees – *No objection subject to condition*

K C Waste Management – *No objection subject to condition*

West Yorkshire Crime Prevention – *Advice given.*

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).

Kirklees Council has adopted supplementary planning guidance on house building which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, with the general thrust of the advice aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). The SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to new housing.

On 12/11/2019, 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.

The site is Unallocated land as designated within the Kirklees Local Plan.

Kirklees Local Plan 2019 (LP):

- LP1 – Presumption In favour of sustainable development
- LP 2 – Place Shaping
- LP 3 – Location of new development
- LP 7 – Efficient and effective use of land and buildings
- LP 11 – Housing mix and affordable housing
- LP 21 – Highway Safety and Access
- LP 22 – Parking
- LP 24 – Design
- LP 28 – Drainage

- LP30 – Ecology and Geodiversity
- LP32 - Landscape
- LP33 – Trees
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land

Supplementary Planning Guidance/Documents

- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Highways Design Guide SPD
- Housebuilders Design Guide SPD
- Planning Practice Guidance

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 December 2023, 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 5 – Delivering a sufficient supply of homes.

Chapter 8 – Promoting healthy and safe communities.

Chapter 9 – Promoting sustainable transport.

Chapter 12 – Achieving well-designed and beautiful places.

Chapter 15 – Conserving and enhancing the natural environment.

Summary of Main issues

- The principle of development
- Urban design issues
- Residential amenity and quality
- Sustainability and climate change
- Highways and transport
- Representations
- Other matters

Assessment

Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in

planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.

Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

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 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, 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, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal.

Local Plan policy LP48 states that 'Proposals which involve the loss of valued community facilities such as shops, public houses and other facilities of value to the local community will only be permitted where it can be demonstrated that there is either no longer a need for the facility or the use is no longer viable and there is adequate provision within the locality'.

The 4 no retail units at the site have been vacant for some time (1 Browning Road since July 2019; 3 Browning Road since September 2016; 5 Browning Road since September 2022 and 7 Browning Road since June 2016). Each of the units underwent a period of marketing following the last occupation, which was each unsuccessful.

In preparing the change of use proposals, consideration was given to retaining some ground floor space for community use and delivering a mixed residential/community development. The Council's Home and Neighbourhoods Partnership Team have worked with local groups who have shown an interest. Despite this, no group has come forward with a viable proposal for the space.

There are a range of local shopping facilities on Sheepridge Road, under a 10-minute walk from the application site which includes hot food takeaways, general store, pharmacy, butcher and hair salon. The Chestnut Centre is also a 5-minute walk from the site which provides community facilities including a library, childcare. Business units to rent and meeting rooms for community groups.

The loss of the retail units at ground floor to be replaced with 4 no. four bedroom family homes for affordable rent is therefore considered acceptable.

The application site is unallocated within the Kirklees Local Plan. As such Policy LP 24 is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

Urban Design issues

Policy LP24 states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by The National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character while not preventing or discouraging appropriate innovation or change.

The site is bordered by residential development to all boundaries, with immediate dwellings comprising two storey terraced dwellings, similar in design and scale as the application site. The fabric of the building is existing and will be retained with amendments to openings only.

The site is currently vacant with steel shutters and bars over openings and overgrown and wholly unkept to the rear. As such the development of the site for residential dwellings is considered appropriate and will bring back into use a site which has been vacant for some time and will improve the appearance of the street scene.

The proposed amendments to the frontage of the building are considered acceptable and appear in keeping with the existing openings at first floor and

with neighbouring dwellings. The small yard to the frontage will create an area of defensible space for the dwelling and give a more domestic appearance to break up the retained tarmac frontage.

The proposed boundary treatments are considered acceptable. A condition will be added for the boundary treatments to be in situ prior to the occupation of the dwellings.

The proposed development is considered to be in compliance with Policy LP24 of the Kirklees Local Plan; Principle 2 of the Housebuilder SPD and guidance within the NPPF.

Impact on residential amenity

A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP 24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

The closest residential dwellings to the application site are 13 Browning Road; 81 Riddings Road and 8-10 Ruskin Road.

The existing units were last used as residential flats at first floor. There are no existing or proposed windows within the side elevation and an existing suitable separation distance to neighbouring dwellings to the south east and north west. As such, Officer's have no concerns with regards to the impact on the residential amenity of neighbouring residential properties.

The proposed dwellings have a proposed internal space which exceeds the Nationally Described space standards at 120sqm for each of the 4 bed/7 person dwellings as set out within the Kirklees housebuilders Design Guide SPD.

The proposed dwellings will have a small yard to the front and large private garden to the rear which is considered to offer an acceptable level of outdoor space for a large family dwelling.

In summary, there is no considered impact on the residential amenity of existing and new residents. As such, the application is considered to comply with Policies LP1, LP24 of the Kirklees Local Plan, relevant Principles of the SPD and guidance contained within Chapter 12 of the NPPF

Impact on highway safety

The NPPF states that all new development should be assessed in terms of their impact on the existing transport infrastructure, impacts on the safety of users and the impact if encouraging sustainable transport modes. Kirklees Local Plan policy 21 sets out the matters against which new development will be assessed in terms of highway safety.

The application is submitted for the change of use of 4 no 4-bedroom flats and 4 ground floor retail units to 4 four-bedroom dwellings.

There are no off-street parking spaces proposed within the application site.

As the existing site was last used as 4 no four-bedroom flats plus four commercial units at ground floor with no existing off-street parking, it is

considered by officers that the proposal to convert the units to 4 no four bedroom homes would result in a reduction of traffic to and from the site. On site observations have indicated that there is currently on street parking to the front in the form of a layby arrangement in front of the premises which could accommodate parking for 4 vehicles.

Taking into account all the considerations and given that there will be an overall reduction in terms of traffic associated with the development, on balance, Officer's consider the proposal to be acceptable and in compliance with policies LP21, LP22 and LP24 of The Kirklees Local Plan, Chapter 12 of the NPPF as well as the Highways Design Guide SPD.

Suitable facilities for the storage and collection of waste have been provided.

Environmental Health

The proposed development involves alterations to the existing structures with the removal of existing shop fronts and landscaping. A condition is therefore proposed in relation to the reporting of unexpected contamination and the importation of materials in order to ensure safe occupation.

Biodiversity and Trees

The application is supported by a Bat scoping survey and bat ground level tree assessment (reference NGR: SE 15729 19131).

The report shows that there is a low potential for bat roost opportunities in outbuilding one. As the outbuildings will be retained and made good in time. As such, no additional works are required, and the development can proceed with minimal impacts to ecological receptors.

A condition will be added that should the demolition of the outbuildings be required, a this could be done under the supervision of a suitably qualified ecologist (Ecological Clerk of Works), with suitable features removed by hand, if required.

The application site holds 3 no. trees to the rear of the site. Although the plans show that the trees will be retained, realistically, due to the position and scale of the trees covering much of the rear garden space, the trees will likely be removed once occupants move in. KC Tree Officers have confirmed that the removal of the trees is not a concern having viewed the photographs within the Bat scoping survey and bat ground level tree assessment. A condition will be added to secure replacement tree planting and soft landscaping scheme should the trees be removed.

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. For the reasons set out in the above report, it is considered that the development would constitute sustainable development and the application is therefore recommended for approval.

Recommendation – Approve

Decision Authorisation - Delegated Powers

Application Number: 2023/92381

Officer Recommendation: Conditional full permission

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 91 of the Town and Country Planning Act 1990.

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 LP21 and LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework and key principles of the Housebuilders Design Guide Supplementary Planning Document.

3. Prior to occupation of the dwellings hereby approved, the boundary treatments indicated on plan BR-BTP-00-ZZ=DR-A-4143_125 Rev 4 shall be constructed. The boundary treatments shall be retained thereafter.

Reason: In the interest of visual amenity and to accord with the aims Policy LP24 of the Kirklees Local Plan as well as aims of Chapter 12 of the National Planning Policy Framework and key principles of the Housebuilders Design Guide Supplementary Planning Document.

4. Prior to occupation of the dwellings hereby approved, the refuse store/collection point indicated on plan BR-BTP-00-ZZ=DR-A-4143_125 Rev 4 shall be constructed. The boundary treatments shall be retained thereafter.

Reason: In the interest of visual amenity and to accord with the aims Policy LP24 of the Kirklees Local Plan as well as aims of Chapter 12 of the National Planning Policy Framework and key principles of the Housebuilders Design Guide Supplementary Planning Document.

5. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of permission is encountered during the development, all works 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. Works 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 remedial 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 in complete accordance with the approved remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification 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 Verification 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 Chapter 15 of the National Planning Policy Framework.

6. Prior to materials being imported to the site, a strategy detailing the intended placement, the source, characterisation and the suitability of any imported material shall be submitted to and approved in writing to the Local Planning Authority. The testing to demonstrate suitability must then be carried out in accordance with the approved strategy. Following importation and placement of the materials as described in the approved strategy, a verification report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time until a Verification Report 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 Chapter 15 of the National Planning Policy Framework.

7. In the event that the demolition of the outbuildings is required, all demolition works shall be undertaken under the supervision of an Ecological Clerk of Works.

Reason: To prevent significant ecological harm in respect of direct impacts to potential bat roosts and to accord with policy LP 30 (as modified) and the requirements of section 15 of the National Planning Policy Framework.

8. In the event that trees are to be removed from the site, then prior to their removal full details of both hard and soft landscape works to be undertaken pursuant to the removal of trees shall be submitted to and approved in writing by the Local Planning Authority. These works shall include:

- Details of materials to be used for all hard surfaced areas including linking paths, vehicle and other circulation areas;
- Planting plans; plant schedules noting species, plant sizes and proposed numbers/densities; and an implementation, management, and maintenance programme for both the hard and soft landscape works;
- and
- A Landscape Management Plan including details of initial aftercare and long-term maintenance for minimum of five years.

The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written

consent to any variation. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out within three months of the removal of the trees or in accordance with the implementation programme agreed in writing with the Local Planning Authority.

Reason: To enhance and conserve the visual amenity of the built environment as well as the natural environment in accordance with Policies LP24, LP32 and LP30 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: 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.*

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: 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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Bat scoping survey and Bat ground level tree assessment by United Environmental Services Ltd dated 24.11.2023	NGR: SE 15729 19131 Ref: UES04239/01	-	01.12.2023
Design and Access Statement	-	-	21.08.2023
Proposed boundary details	BR-BTP-00-ZZ-DR-A-4134_125	4	25.04.2024
Proposed elevations	BR-BTP-01-E-DR-A-4134_113	2	21.08.2023
Existing floor plans	BR-BTP-01-E-DR-A-4134_105	-	21.08.2023
Existing elevations	BR-BTP-01-E-DR-A-4134_107	1	21.08.2023
Location Plan	BR-BTP-01-E-DR-A-4134_100	-	21.08.2023
Proposed floor plans	BR-BTP-01-E-DR-A-4134_112	1	21.08.2023
Existing site plan	BR-BTP-01-E-DR-A-4134_101	-	21.08.2023
Climate change statement	-	-	21.08.2023
Email dated 19.09.2023 from Leanne Beirne, BTP – evidence of marketing of retail units	-	-	19.09.2023

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 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. Prior to the submission of this planning application, the applicant sought formal pre-application advice. During the course of the application, the applicant submitted a bat scoping survey and amended plans to show boundary treatments and bin store/collection location in order to avoid a pre-commencement condition.

