

**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>2023/62/92779/W</b>
Site Address:	Chicken Cottage, 23, Cross Church Street, Huddersfield, HD1 2PY
Description:	Erection of single storey rear extension, alterations to upper floors to form 2 apartments, alterations to frontage to create additional entrance, internal and external alterations (Listed Building within Conservation Area)
Recommending Officer:	Katie Chew

**DECISION - REFUSED**

**I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

Teresa Harlow

***AUTHORISED OFFICER***

**Date:** 25<sup>th</sup> March 2024

## **Officer Report**

### **Site Description**

Chicken Cottage, 23, Cross Church Street, Huddersfield, HD1 2PY

The application site relates to a three-storey mid-terraced property located within Huddersfield Town Centre. The building is stone-built and is designed with a pitched roof. The building currently serves as a takeaway and restaurant. The building fronts onto Cross Church Street and provides a small yard area to the rear.

The application site is located within Huddersfield Town Centre Conservation Area and relates and is adjacent to several Listed Buildings.

### **Description of Proposal**

The application seeks planning permission for the erection of a single storey rear extension, alterations to upper floors to form 2 apartments, alterations to frontage to create additional entrance, internal and external alterations (Listed Building within Conservation Area).

The proposed single storey extension is to be erected on the rear elevation of the existing property and is to measure 6.1m x 2.5m, with a ridge height of 2.8m. The extension is to be constructed from stone with a flat roof and is to provide an extended kitchen/prep area to Chicken Village.

Other external alterations include the provision of a new entrance lobby on the front elevation at ground floor level. 3 new rooflights are also proposed within the front and rear roof slopes.

Internally, alterations are proposed to ensure that access can be gained to the new apartments and that the building functions sufficiently as residential accommodation on the first, second and attic floors.

Apartment 1 comprises of a lobby area, bathroom, open plan kitchen/lounge and double bedroom. The apartment will have a floorspace of approximately 45sqm.

Apartment 2 comprises of 2 double bedrooms, bathroom, open plan kitchen/lounge, en-suite and lobby area. The apartment will have a floorspace of approximately 61sqm (when taking into consideration the lack of head height in bedroom 2 – which falls below 1.5m).

No off-street parking or garden/amenity space is proposed within the development.

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

No amendments have been sought as the proposals are deemed to be wholly unacceptable.

### **Relevant Planning History**

2023/92815 - Listed Building Consent for erection of single storey rear extension, alterations to upper floors to form 2 apartments, alterations to frontage to create additional entrance, internal and external alterations. Pending consideration.

2003/90267 – 3 no. illuminated signs. Replacement of 14 no. banners (part within a Conservation Area). Approved 27<sup>th</sup> February 2003.

2003/90266 – Overcladding of existing concrete panels on frontages, replacing glazed canopies and external alterations (part within Conservation Area). Approved 27<sup>th</sup> February 2003.

96/92063 – Listed Building Consent for demolition, alterations and internal alterations in materials to match existing (within Conservation Area). Approved 7<sup>th</sup> March 1997.

### **Pre-application Advice**

2023/21508 – EIA Screening Request. EIA not required.

2023/21181 – Pre-application for heat network linking Huddersfield Incinerator to Huddersfield Town Centre. Comments made 1<sup>st</sup> November 2023.

### **Representations**

Final publicity date expires:

Neighbour Letters – Expired 8<sup>th</sup> March 2024.

Site Notice – Expired 7<sup>th</sup> March 2024.

Press Notice – Expired 22<sup>nd</sup> March 2024.

No representations have been received to date.

**Officer note:** This application has been advertised by site notice and press notice in line with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development management Charter. This is due to the site relating to, and affecting the setting and significance of Listed Buildings and being located within the Huddersfield Town Centre Conservation Area.

### **Consultation Responses**

**KC Ecology Unit** – Comments received 8<sup>th</sup> February 2024. The proposal will result in minimal impacts to ecological receptors and as such, Ecology Officers have no objections to the proposals.

**KC Highways Development Management** – No comments received within statutory timescales.

**KC Environmental Health** – Comments received 26<sup>th</sup> February 2024. The site of the proposed development is on a busy commercial street in the centre of Huddersfield, with a vibrant nighttime economy and several licensed premises. The proposal is for alterations to form two apartments on the first and second floors above the existing hot food takeaway. Environmental Health Officers have very serious concerns that noise and odours at this location will impact the amenity of future residents of the proposed apartments, for these reasons ENVH Officers are unable to support this application.

**KC Conservation & Design (informal)** – Officers request the submission of additional information in respect of a heritage statement and details on the proposed external and internal changes. The information submitted at present is insufficient to allow them to undertake a full assessment of impacts on heritage assets.

**Officer note:** Whilst the above comments are noted, given the conclusions drawn in respect of residential and visual amenity Officers have not sought to request the submission of this additional information as the proposals are considered to be wholly unacceptable as originally submitted.

### **Parish/Town Council**

N/A.

### **Local Ward Members**

None.

### **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 27<sup>th</sup> February 2019).

The application site is located within Huddersfield Town Centre, within the Primary Shopping Area, Secondary Shop Front, Huddersfield Town Centre Conservation Area and a Coal Referral Area. It is also important to note that the host building relates to a Grade II Listed building, set adjacent to, and in close proximity to other Listed Buildings.

## **Kirklees Local Plan (LP):**

- **LP1 – Presumption in Favour of Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP7 – Efficient and Effective Use of Land and Buildings**
- **LP11 – Housing Mix and Affordable Housing**
- **LP14 – Shopping Frontages**
- **LP15 – Residential Use in Town Centres**
- **LP17 – Huddersfield Town Centre**
- **LP21 – Highways and Access**
- **LP22 - Parking**
- **LP24 - Design**
- **LP35 – Historic Environment**
- **LP52 – Protection and Improvement of Environmental Quality**

## **Huddersfield Town Centre Blueprint SPD:**

Huddersfield Town Centre Blueprint SPD was adopted 24th June 2020 however, following a legal challenge the Council has revoked the adoption of the blueprint on 27th October 2020. The Council will continue to promote the Huddersfield Blueprint as the Council's vision for the town centre. Within Kingsgate and King Street there will be a focus on making access for pedestrians and cyclists easier, with hopes to also improve the public realm so that it is high quality and uncluttered.

## **National Policies and Guidance**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 20<sup>th</sup> December 2023, 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 16 - Conserving and enhancing the historic environment

## **Other Guidance Documents:**

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- National Design Guide
- Kirklees Waste Management Design Guide for New Developments

## **Summary of Principal Planning Issues**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact of the proposed development upon visual amenity and heritage assets
- 2) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 3) Impact on highway safety
- 4) Other matters
- 5) Conclusion

### **1 – Principle of Development**

#### 1.1 - Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The site is not displayed as allocated on the KLP Policies Map. Policy LP2 states that:

*“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”*

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

‘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. The judgement in this case is set out in the officer's assessment.'

Chapter 7 of the NPPF relates to ensuring the vitality of town centres and states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption. Paragraph 90 states that it should be recognised that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

Policy LP13 of the Kirklees Local Plan relates to town centre uses and sets out that within Kirklees, main town centre uses shall be located within defined centres. These consist of principal town centres, town centres, district centres and local centres. This Policy outlines that proposals that have a significant adverse impact on the vitality and viability of a centre or compromise the role and function of a centre will not be supported. This Policy goes on to note that main town centre uses which are appropriate in scale, help to retain an existing centre's market share, and enhance the experience of those visiting the centre and the businesses which operate in that centre will be supported.

Policy LP17 of the Kirklees Local Plan states that Huddersfield Town Centre will be the principal focus for high quality comparison retail goods within the district, supported by a range of leisure, tourism, office (including high quality grade A office space), and other main town centres uses. Huddersfield town centre will also provide high quality educational facilities and opportunities for town centre living.

Policy LP14 of the Kirklees Local Plan relates to shopping frontages, and no. 23 Cross Church Street has a Secondary Shopping Frontage along Cross

Church Street, and the site is within a Primary Shopping Area. Policy LP14 states that Secondary Shopping Frontages are characterised by a mix of retail and other 'main town centre uses', and at street level, proposals for retail and other main town centre uses will be acceptable provided that they meet criteria a, taking into account criteria b and c:

- a. whether the proposal would lead to a dominance of non-retail uses in a particular frontage which would undermine the retail core and function of the Primary Shopping Area;*
- a. the nature of the proposed use, including the associated level of activity, hours of operation, whether a shop front would be incorporated and whether it would complement neighbouring uses; and*
- b. in all cases proposals and changes of use shall seek to either retain, enhance or replace to improve shop front design and layout*

Policy LP15 of the Kirklees Local Plan relates to residential uses within town centres and sets out that such uses 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;
- b. 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;
- c. the protection and retention of existing ground floor uses and active frontages both within and outside the primary shopping area,
- d. 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;
- e. 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;
- f. 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;
- g. provision of affordable housing in accordance with policies set out in the Local Plan; and
- h. the provision of refuse storage and collection.

In respect of the proposed apartments, the site is within a sustainable location within Huddersfield town centre and close to public transport links. The site is within a Primary Shopping Area and Secondary Shopping Frontage area. The building at ground floor level currently operates by 'Chicken Village' with office space, WC's and loft space provided at first and second floor level. The proposed development would provide 2 units of residential accommodation on the first, second and loft floors of the building, thus utilising an existing brownfield site, which would not result in the loss of a town centre use at ground floor along this secondary shopping frontage area. Of note, and as

alluded to above, it is stated that within the NPPF that residential development can play an important role in ensuring the vitality of centres. Given the above, it is considered that the proposal would not detrimentally impact upon the vitality and viability of Huddersfield Town Centre, or its role and function. The proposal is therefore considered to be in accordance with Policies LP13, LP14 and LP15 a and c and LP17 of the Kirklees Local Plan and Chapter 7 of the NPPF.

Thus, the principle of the proposed change of use could be acceptable, but the principle of the change of use will be subject to other considerations which shall be discussed below, including points b and d-h of Policy LP15 of the Kirklees Local Plan.

## **2 – Impact on Visual Amenity and Heritage Assets**

Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

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

The harm, should any be considered to accrue from this development, will be assessed and discussed later in this report.

In addition, 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 significantly LP24 all also 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.

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...*

*c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers”.*

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- Taking cues from the character of the built and natural environment within the locality.*
- Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Principle 6 of the Housebuilders Design Guide SPD highlights that *‘the space between buildings can help maximise residential amenity in terms of maintaining privacy, reducing overlooking and ensuring natural light is able to penetrate buildings...normally new build development should seek appropriate separation distances for servicing, accommodating future adaptations and creating attractive street scenes. These should be in keeping with the character and context of the site and proportionate to the scale of the dwellings’.*

Principle 5 of the Housebuilders Design Guide states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street. Principle 15 of the Housebuilders design guide sets out that the design of the roofline should relate well to the site context, including topography, views, heights of buildings and the roof types. Principle 14 of the Housebuilders design guide states that the design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials, and finally Principle 13 seeks to ensure consideration is given to use locally prevalent materials and finishing to reflect the locality.

As the proposals are seeking to convert part of an existing building into 2 apartments, much of the above is dictated by the positioning of the existing building. Nevertheless, the building faces onto Cross Church Street, follows a coherent building line and the existing pitched roof is to remain and is therefore considered to be reflective of adjacent properties. However, Officers do acknowledge that a flat roofed single storey rear extension is proposed within the yard area to the rear, this extension is to measure 6.1m x 2.5m,

with a ridge height of 2.8m and is to be constructed from stone with a flat roof and is to provide an extended kitchen/prep area to Chicken Village. The proposed walling materials are considered to be sympathetic, and whilst the proposals seek a flat roof design, these types of roofs are not uncommon in the area and given its location within the rear yard area it would not be visible from public vantage point and is therefore deemed to be acceptable. The extension is small and is considered to be subservient to the host building.

Windows and doors are to remain as is, albeit new rooflights are proposed to be installed within the front and rear roof slopes (although these are not shown within the elevation plans). Whilst Conservation style roof lights may be acceptable further details would be required to enable Officers to assess the proposals and any impacts they may have on the Listed Building or Conservation Area.

Regarding visual amenity and the impact on the Conservation Area and the setting and significance of the Grade II Listed Building, the majority of the works are to consist of internal alterations, with some minor changes in respect of the installation of rooflights and new entrance lobby to the front elevation, and a single storey rear extension which would not be visible from the street and therefore would not be read against other buildings within the Conservation Area. These proposed changes are considered to have minimal, if any impact on the significance of the Conservation Area. Notwithstanding the above, the current building is in need of some refurbishment and the proposals may actually help to enhance the appearance of the building and the character and appearance of the area given its prominent location in Huddersfield Town Centre, subject to strict conditions on the proposed external materials – including changes to existing windows.

In respect to harm to the Listed Building itself, the Council's Conservation Officer was informally consulted on the proposals and noted that insufficient details have been submitted to support the proposals. Whilst a Design Access and Heritage Statement has been submitted Officers do not consider the statement to be sufficient to meet the requirements of Chapter 16 paragraph 200 of the NPPF which requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. The statement does not provide any assessment of the significance of the building, except the inclusion of the list entry. There is equally no assessment of potential impact on the building, the considered level of harm and where there is harm how the proposals are considered acceptable.

In respect of the proposed internal and external alterations, insufficient details have been provided and although internal photographs have been submitted, no information has been given on how the removal, installation or retention of certain structures/features such as the staircase, internal walls, installation of

rooflights etc. are to be undertaken to ensure that the fabric of the Listed Building is protected and enhanced where possible. C&D Officers did note that the proposed extension to the rear should have no impact on the setting and significance of the Listed Building, but again further details are required to ensure that it is constructed sensitively. In principle, the conversion of the upper floors of 23 Cross Church Street and a single storey rear extension could be acceptable subject to the proposals being sympathetic but without the submission of further information Officers are unable to undertake a full assessment of the scheme. With the overall main concern being the lack of assessment and understanding of the significance and character of the building; this will be principally addressed in the allied application for listed building consent where the internal alterations are discussed in more detail.

It is therefore considered that the proposed development is contrary to the requirements of Policies LP1, LP2, LP15, LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the National Planning Policy Framework, and Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990).

### **3 – Impact on Residential Amenity**

Sections B & C of the Kirklees Local Plan Policy LP24 which states 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 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 Housebuilders Design Guide sets out 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 text supporting Principle 6 of the Kirklees Housebuilder Design Guide SPD states set out recommended minimum separation distances for two storey properties, these being:

- 21 metres between facing windows of habitable room;
- 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.

As noted above, Policy LP15(d) sets out that proposals for residential uses in town centres should protect the amenity of existing residents and future

occupiers of the proposed residential use, and will in particular consider matters such as privacy, noise and air quality.

Given the location of the proposed apartments, there are no adjoining or directly adjacent residential dwellings and therefore Officers have no concerns in respect of overlooking, overshadowing, or the proposals appearing overbearing in nature on this occasion.

#### Amenity of future occupiers

In terms of the amenities of the proposed occupiers, Principle 16 of the Housebuilders Design Guide (even though this application does not seek to 'build' dwellings it is a useful marker against which to assess residential amenity) seeks to ensure the floorspace of dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers. These are not enshrined in a Policy of the Local Plan but, taking into account LP24, they do provide a basis against which to assess 'residential amenity'. 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"*.

As outlined at the start of the report, Apartment 1 is to provide one double bedroom, with a floorspace of around 45sqm. Apartment 2 is to provide two double bedrooms, with a floorspace of around 61sqm. Both of these apartments would fall short of the minimum gross internal floor areas outlined within the NDSS, in addition to this, bedroom 2 of Apartment 2 would only have access to rooflights, which would provide natural light into the rooms but would provide a limited outlook for any future occupiers. Officers therefore do not consider that the apartments would provide a good standard of amenity for future occupiers, contrary to LP15 and LP24 of the Kirklees Local Plan.

Furthermore, no garden/amenity space is provided for the future occupiers, with the yard area to the rear to be only accessibly to the employees of the restaurant/takeaway, with much of this space taken up to provide the proposed single storey rear extension. Whilst this is unfortunate, it is acknowledged that this arrangement is not uncommon within town centre locations and that there is urban green space available for any future occupiers to use at St. Paul's Church which is located approximately 100m away, to the north of the application site.

Chapter 8 of the NPPF at paragraph 92, part b) highlights that planning decisions should aim to achieve healthy, inclusive, safe places which are accessible and where the fear of crime does not undermine the quality of life or community cohesion. The application site is located on Cross Church

Street within Huddersfield Town Centre, on this street there are significant incidences of late-night crime and anti-social behaviour due to the high concentration of licensed premises. There are also a number of late-night food and drink uses. As a consequence, Officers consider that the provision of residential apartments in this location would not be acceptable, and given that occupiers would have to enter the property directly from the street where crime and anti-social behaviour could be taking place, would fail to provide a good standard of amenity for future occupants of the apartments, and therefore does not accord with Chapters 8 and 12 of the National Planning Policy and Policy LP24b, and this further diminishes the standard of amenity given what has already been noted above in relation to a poor standard of internal amenity space.

Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.

The proposed development is situated in the town centre and will introduce new receptors into a noisy environment including traffic noise, pedestrian/customer noise and noise associated with the business below and from nearby businesses (including noise from refrigeration and ventilation systems, music and customers using external seating areas to nearby businesses). The Council's Environmental Health team were consulted on the proposals and noted that they have very serious concerns that noise and odours at this location will impact the amenity of future residents of the proposed apartments, for these reasons ENVH Officers are unable to support this application, and do not request the submission of any further details.

It is also likely that should planning permission be granted ENVH would require windows to be kept closed to help achieve acceptable levels of noise internally that would 'seal' residents into their apartments. Which given the concerns raised by Officers in respect to the limited size and outlook from the apartments, and that there are issues relating to the fear of crime in this location, it is considered that the provision of a ventilation scheme whereby windows cannot be opened due to noise and poor air quality would further diminish the standard of amenity for future residents, adding to the overall oppressive nature of the scheme as submitted. In addition, the sealing of these windows may also have implications for the listed status of the building as the existing windows may not be able to provide adequate noise mitigation however, due to the lack of information submitted in respect of the heritage asset Officers are unable to draw any conclusions on this at present.

Taking the above into consideration, the proposals are not considered to provide a good standard of amenity for future occupants of the property as required by Chapters 8, 12 and 15 of the National Planning Policy, LP24 of the Kirklees Local Plan, and Principles 6 and 16 of the Housebuilders Design Guide SPD.

#### **4 – Impact on Highway Safety**

Turning to highway safety, Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. 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.

Policy LP24d states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development.

Principle 12 of the Housebuilders Design Guide sets out, amongst other things that parking to serve dwellings should not dominate streets and should be to the side/rear.

Principle 19 of the above guide states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development.

No parking is proposed within the application. Whilst no comments have been received from the Council's Highways team, given that the application site is sited within Huddersfield town centre, within close proximity to the Huddersfield Bus Station and Train Station, the site is considered to be in a sustainable location and therefore Officers have no concerns in respect of parking on this occasion. With regards to waste storage and collection facilities, no details have been provided to show how the waste from the residential apartments is to be collected although some limited information regarding the siting of bins is shown on the site plan. Furthermore the site plan does not show clear details of commercial bin storage for the takeaway. and therefore a full assessment cannot be undertaken in respect of this element of the scheme. Nevertheless, should planning permission be granted a condition could be imposed requiring the submission of these details prior to works commencing at the site. This would have been in the interests of residential and visual amenity and highway safety.

For the aforementioned reasons, and subject to a condition in respect of waste management, it is concluded that the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21, LP22 and LP24d of the Kirklees Local Plan, Principles 12

and 19 of the Housebuilders Design Guide SPD and Chapter 9 of the National Planning Policy Framework.

## **5 – Other Matters**

### **Coal Mining**

The site falls within a High Coal Risk Zone. The application is supported by a Coal Mining Risk Assessment dated 16<sup>th</sup> November 2023, of which it is concluded that there is a 'low risk' but that a gas risk assessment for the development may need to be undertaken, which may recommend basic gas protection measures within the foundation design for the proposed rear extension. Given the conclusions drawn within the main body of this Officer report, consultation was not undertaken with The Coal Authority however, should any subsequent application be submitted at the site for an extension to the existing building consultation will be undertaken at that time.

### **Climate Change**

On 12<sup>th</sup> 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 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.

Policy LP24 of the Kirklees Local Plan sets out expectations of sustainability regarding development proposals. In addition, LP26 of the Kirklees Local Plan relates to renewable and low carbon energy, stating that renewable and low carbon energy proposals (excluding wind) will be supported, and planning permission granted where the following criteria are met: a. the proposal would not have an unacceptable impact on landscape character and visual appearance of the local area, including the urban environment; b. the proposal would not have either individually or cumulatively an unacceptable impact on protected species, designated sites of importance for biodiversity or heritage assets; c. the statutory protection of any area would not be compromised by the development; d. any noise, odour, traffic or other impact of development is mitigated so as not to cause unacceptable detriment to local amenity; e. any significant adverse effects of the proposal are mitigated by wider environmental, social and economic benefits.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their resilience on

sources of non-renewable energy. Proposals should also seek to design water retention into proposals.

The application is supported by a Climate Change Statement, this statement outlines that existing materials are to be re-used on site to minimise waste, existing walls and floors are to be insulated with energy efficient toilets and showers, appliances and LED lights fitted throughout the building. It is also noted that as a minimum the proposed apartments would be constructed to the latest building control standards which would include efficient heating and thermal elements within the building. Given the above, it is not considered reasonable to expect any additional information to be submitted in respect to meeting the Council's climate change agenda in this instance.

Taking the above into account, the proposed development is therefore considered to comply with Policies LP24 and LP26 of the Kirklees Local Plan, Chapter 14 of the National Planning Policy Framework and Principle 18 of the Housebuilders Design Guide SPD.

## **6 – 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. It is considered that the proposed development would not constitute sustainable development and is therefore recommended for refusal.

### **Recommendation:**

Refuse.

Decision Authorisation - Delegated Powers

Application Number: 2023/92779

Officer Recommendation: Refuse

### **Reason(s) for Refusal:**

1.The proposed development, would result in future occupants suffering from a poor living environment and standard of amenity due to the size (internal floorspace) of the proposed flats and outlook from bedroom 2 of Apartment 2 within the attic. Furthermore, given the high concentration of late-night food and drink uses located on Cross Church Street this would result in future occupiers suffering from a poor living environment and standard of amenity in order to mitigate against external sources of noise, odour and poor air quality.

The development would therefore be contrary to Policies LP15d, LP24b and LP52 of the Kirklees Local Plan, Principle 16 of the Housebuilders Design Guide SPD and Policies within Chapters 12 and 15 of the National Planning Policy Framework.

2. The proposed development is within an area where there have historically been incidences of late-night crime and anti-social behaviour due to the high concentration of licensed premises on Cross Church Street. This would likely result in any occupants of the proposed flats and their visitors having a fear of crime and disorder. Therefore, the development would be contrary to the aims of Chapters 8, 12 of the National Planning Policy Framework, and Policies LP15d and LP24e of the Kirklees Local Plan.

3. In the absence of sufficient information being submitted which identifies the relevant heritage assets, and if/how the proposals may impact upon them, a full and proper assessment of the impact of the development on the Huddersfield Town Centre Conservation Area and Grade II Listed Buildings cannot be undertaken. The applicant has failed to demonstrate that the proposed development would not have a harmful impact on the external appearance of the Listed Building and the Huddersfield Town Centre Conservation Area, through the rear extension, changes to the shopfront and allied external alterations or demonstrated any public benefits which would outweigh any harm caused. The proposals therefore do not meet the requirements of Chapter 12, and Paragraphs 200, 206 and 208 of Chapter 16 of the National Planning Policy Framework and Policies LP1, LP2, LP15, LP24 and LP35 of the Kirklees Local Plan and Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990).

**Plans and specifications schedule: -**

<b>Plan Type</b>	<b>Reference</b>	<b>Web ID</b>	<b>Date Received</b>
Location Plan	-	-	19 <sup>th</sup> September 2023
Existing Floor Plans	2314/201	A	19 <sup>th</sup> September 2023
Proposed Floor Plans	2314/202	C	24 <sup>th</sup> January 2024
Existing and Proposed Elevations & Section	2314/203	A	19 <sup>th</sup> September 2023
Proposed Site Plan	2314/204	A	5 <sup>th</sup> December 2023
Proposed Section	2314/205	A	24 <sup>th</sup> January 2024
Coal Mining Risk Assessment – Supporting	-	1.1	27 <sup>th</sup> November 2023

Information			
Design and Specification for Kitchen Ventilation System – Supporting Information	KRS/2028/Wa	-	28 <sup>th</sup> November 2023
Climate Change Statement – Supporting Information	-	-	6 <sup>th</sup> October 2023
Design Access and Heritage Statement – Supporting Information	-	-	6 <sup>th</sup> October 2023
Multiflow SEL Product Brochure – Supporting Information	-	-	28 <sup>th</sup> November 2023
LONGAR Type 2 High Performance Premium Baffle Filter brochure – Supporting Information	-	-	28 <sup>th</sup> November 2023
Electrostatix 7000/10500 AG Grease & Smoke Control brochure – Supporting Information	-	-	28 <sup>th</sup> November 2023
Xtract 2100+ Odour Control – Supporting Information	-	-	28 <sup>th</sup> November 2023
Flakt Woods Limited Technical Data Sheet MaXfan Compac – Supporting Information	-	-	28 <sup>th</sup> November 2023
Acoustic Deck 34 Premium Overlay Board –	-	-	28 <sup>th</sup> November 2023

Supporting Information			
Site Photos – Supporting Information	-	-	15 <sup>th</sup> & 24 <sup>th</sup> January 2024

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments have been sought on this occasion as the proposals are deemed to be wholly unacceptable and would require significant amendments to overcome the objections raised.

Report Dated:

25<sup>th</sup> March 2024