

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

DEVELOPMENT MANAGEMENT

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

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

Reference no. 2023/CL/92836/W

**Site Address 1st & 2nd floors, 9-13, Market
Walk, Huddersfield, HD1 2QA**

**Description Prior notification for change of
use from retail/storage to four
dwellings (within a Conservation
Area)**

Recommending Officer Laura Yeadon

DECISION - REFUSED

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

Kevin Walton

AUTHORISED OFFICER

Date:09-Nov-2023

Officer Report

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92836>

Site Description

The application site comprises of a three-storey high stone-built property located off Market Walk in Huddersfield. The building adjoins other commercial and residential units and was previously in use as a retail premises 'Shaw & Hallas' shoe shop. The application relates to the first and second floors of the building.

Prior approval is sought for the proposed change of use from retail/storage to four dwellings (within a Conservation Area).

The submitted details include the following:

Ground floor – no proposed changes
First floor – Apartment 1 and Apartment 2
Second floor – Apartment 3 and Apartment 4

No proposed street scene elevations have been submitted however the submitted Planning Statement cites that there are no proposed external alterations to the building.

1. Procedural Matters

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

Limitations for Part 3, Class MA.1 Development

Development is not permitted:-

(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval	Pass: There is no evidence to suggest the building has been occupied 3 months prior to the date of the application.
(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;	Pass: The use of the premises is and has been retail for at least a 2 year period.
(c) The cumulative floor space of the existing building changing use under Class MA exceeds 1500 square metres;	Pass: The cumulative floor space of the existing building change use under Class MA would not exceed 1500 sq m.
(d) if land covered by, or within the curtilage of, the building— (i) is or forms part of a site of special scientific interest; (ii) is or forms part of a listed building or land within its curtilage;	Pass: The development is not in any category in paragraph (d)

(iii)is or forms part of a scheduled monument or land within its curtilage; (iv)is or forms part of a safety hazard area; or (v)is or forms part of a military explosives storage area;	
(e) if the building is within— (i)an area of outstanding natural beauty; (ii)an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(3); (iii)the Broads; (iv)a National Park; or (v)a World Heritage Site;	Pass: The building is not in any category in paragraph (e)
(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;	Pass: The building is not occupied under any agricultural tenancy
(g) before 1 August 2022, if— (i)the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and (ii)the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.	Pass: The building is not within and land affected by an Article 4 Direction.

Condition MA.2:

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

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

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

The development does not meet the fire risk condition.

The above details will be assessed below.

As part of the notification procedure, the Local Authority notified members of the public of the proposed development by sending neighbour notification letters to those with an adjoining boundary and allowing 21 days for objections to be made. The Local Planning Authority shall consider any representations made as a result of the notice given.

Space Standards

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

In this instance, the accommodation proposed is 4 no. dwellings which are in the form of flats:

Apartment 1

Apartment 1 is proposed to be a one bedroom first floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 30.7 square metres which would not accord with the recommended space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Apartment 2

Apartment 2 is proposed to be a one bedroom first floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 34.6 square metres which would not accord with the recommended space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Apartment 3

Apartment 3 is proposed to be a one bedroom second floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 33.6 square metres which would not accord with the recommended space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Apartment 4

Apartment 4 is proposed to be a one bedroom second floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 41.3 square metres which would not accord with the recommended

space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Publicity end date: 30th October 2023

Objections

As a result of the above publicity, no responses have been received.

Assessment

Transport and highway impacts:

The application site is located within Huddersfield Town Centre down an alley way off King Street. The site is bounded by commercial shops in all directions, however, there are some other residential uses within close proximity to the site. The area consists of a mix of uses, the majority of which do not have the benefit of off-street parking.

Due to the building being located within the Town Centre and therefore within a sustainable location, it was not considered necessary to consult with Highway Officers. Parking is available within car parks around the town centre and pedestrian access is via a pedestrian area off Market Walk.

In terms of traffic impacts from bin wagons, the Council's Waste Strategy Officer was formally consulted and it was requested, amongst other things, that a condition is to be imposed requesting that details of the management and maintenance of the communal refuse storage area by a designated private management company be provided and approved by the LPA. However, the Agent has submitted details of the bin storage area and the Service Agreement in place which were received on 13th October 2023. The Waste Strategy Officer has cited that whilst not ideal situation due to residents having to walk round to the rear of the building, the proposal is the most practical solution in this case.

Contamination risks:

The proposal is for a change of use from retail to 4 dwellings, and from the submitted information it appears unlikely that there will be any groundworks. This site is not identified on the Council's mapping system as being potentially contaminated land, or in close proximity to any contaminated land.

Flooding risk:

The site is not within a flood zone or a critical drainage area.

Impact in terms of noise:

The Council's Environmental Health Team were formally consulted regarding the proposal. Concerns have been raised that noise from commercial properties that share party structures could cause loss of amenity to future occupiers. As the proposed development is within the town centre noise from traffic and other commercial related activities such as deliveries, customer noise etc could lead to loss of amenity. As such, Officers have requested that a Noise Assessment Report and Mitigation Scheme be submitted. The report would need to include the existing and predicted noise climate and the proposed attenuation/design necessary to protect the amenity of the occupants of the new residents. In addition, an informative is requested to be included

on the decision notice to limit construction activities to protect the amenities of neighbouring properties from noise.

A condition has also been requested that would require written evidence to demonstrate that the airborne sound performance of the party floors/walls/ceiling of the development is of a minimum of 55dB Dntw + Ctr is achieved to ensure airborne sound insulation. Should this not be achieved a scheme incorporating further measures to achieve the sound insulation performance should be submitted and approved in writing.

Impact on the Conservation Area:

The host building is located within the boundary of the Huddersfield Town Centre Conservation Area. However, no external alterations are proposed which would harm the character or the significance of the Huddersfield Town Centre Conservation Area.

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

In terms of natural light, the submitted floor plans demonstrate that all habitable rooms within all four apartments would benefit from at least one window and therefore it is considered that all habitable rooms would be provided with adequate natural light to allow an acceptable standard of amenity of future occupants and would therefore accord with the criteria.

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

The development is generally surround by town centre related uses and does not impact upon any of the uses listed above.

Other matters

None

Representations

None received

Recommendation

The application has not been submitted with sufficient information to allow the Local Authority to assess the noise impacts. It is also considered that the internal gross floor space of Apartments 1, 2, 3 & 4 would not meet the space standards for the two double bed spaces proposed, therefore the application is to be refused.

Recommendation: Prior Approval Refused

Decision Authorisation - Delegated Powers

Application Number: 2023/92836

Officer Recommendation: Refuse

Article 3(9)A of the Town and Country Planning (General Permitted Development) (England) Order (as amended) precludes any grant of planning permission where the

gross floor area of any new dwelling does not exceed 37 sq metres or does not meet nationally described space standards issued by the Department of Communities and Local Government on 27th March 2015. The requirement to meet the national space standards was introduced to prior approval applications on 6th April 2021.

Apartment 1 is proposed to be a one bedroom first floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 30.7 square metres which would not accord with the recommended space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Apartment 2 is proposed to be a one bedroom first floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 34.6 square metres which would not accord with the recommended space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Apartment 3 is proposed to be a one bedroom second floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 33.6 square metres which would not accord with the recommended space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Apartment 4 is proposed to be a one bedroom second floor flat. The Technical Housing Standards document states that a one-bedroom flat for one person (minimum assessed) one storey should be at least 37 or 39 square metres dependant on whether the bathroom has a shower. In this instance, the internal accommodation is proposed to approximately 41.3 square metres which would not accord with the recommended space standards. However, the bedroom is shown to sleep two persons which requires 50 square metres of space, thus contrary to space standards.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Location plan			22 nd September 2023
Proposed ground floor plan	A(BR)-04 – Rev: C		22 nd September 2023
Proposed first floor plan	A(BR)-05 – Rev: D		22 nd September 2023
Proposed second floor plan	A(BR) -06 – Rev: D		22 nd September 2023
Bin storage plan	A(PL)-07		13 th October 2023

Report Dated:

9th November 2023

