

**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:	2024/62/90436/E
Site Address:	Papyrus, 45, Northgate, Cleckheaton, BD19 3HS
Description:	Change of use of part of property from retail/office to one dwelling including associated internal and external alterations
Recommending Officer:	Edward Cheseldine

DECISION – FULL CONDITIONAL PERMISSION

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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 28-JUN-2024

Officer Report

2024/90436 - Papyrus, 45, Northgate, Cleckheaton, BD19 3HS

Site Description

45 Northgate is a retail/office unit in the centre of Cleckheaton. The building is a two storey, stone faced property which is on a corner plot. It features sash windows and detailed fenestration. 45 Northgate is located on a main shopping street. The adjacent buildings are retail outlets. The application site is located in a Primary Shopping Area and part of Cleckheaton Town Centre which is allocated on the Kirklees Local Plan Allocations Map.

Application Description

The application is seeking planning permission for a change of use of part of the property from retail/office to one dwelling including associated internal and external alterations.

The building will retain its retail use on part of the ground floor and basement, including the primary shopping frontage.

Residential floor space will be introduced on the rear of the ground floor and first-floor. Access to the property will be from the rear external door.

Amendments/Negotiations

It was considered the internal layout would require altering as bedrooms 2 & 3 had poor outlooks. Internal alterations were received.

Relevant Planning History

Application site – None

Consultation Responses

KC Environmental Health – No objection subject to conditions relating to sound mitigation measures.

Public Representations

Neighbourhood notification letters were distributed to advertise the application, which expired on the 08-Apr-2024. There were no representations received.

Policy & Legislation

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

The application site is allocated in a Primary Shopping Area within Cleckheaton Town Centre on the Kirklees Local Plan map.

Kirklees Local Plan:

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 7 – Efficient and effective use of land
- LP 13 – Town centre uses
- LP 15 – Residential use in town centres
- LP 20 – Sustainable travel
- LP 24 – Design
- LP 25 – Advertisements and shop fronts

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 4 – Decision Making
- Chapter 5 – Delivering a Sufficient Supply of Homes
- Chapter 7- Sustainable Transport
- Chapter 8 – Promoting Healthy and Safe Communities
- Chapter 12 – Achieving Well-Designed Places & Beautiful Places

Other Material Considerations:

- Highways Design Guide SPD (2019)
- Waste Management Design Guide for New Development (Version 5, October 2020)
- Kirklees Housebuilders Design Guide SPD (2021)
- National Planning Practice Guidance (Last updated 24 June 2021)

Assessment

The following matters are considered in the assessment below: -

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Environment matters
- 7) Conclusion

Principle of Development

Presumption in favour of sustainable development

NPPF Paragraph 11 and KLP1 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 assessed.

Land Allocation

The site is allocated as within Cleckheaton Town Centre 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...

Change of use from retail outlet to residential dwellings

'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 however, this has to be balanced against any adverse impacts of granting the proposal.

The proposal is for the conversion of part of a retail outlet to form one dwelling. Housing applications should consider the context of the presumption in favour of sustainable development. Paragraph 70 of the NPPF recognises that: "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area". The weight given to the building of one new dwelling in the context of contributing to housing delivery targets when considering the presumption in favour of sustainable development is given a material weighting when set against other policies in the framework and Local Plan.

The site falls within Cleckheaton Town Centre, whereby policy LP13 of the Kirklees Local Plan is relevant. The policy encourages development that supports a strong, diverse economy that serves the local community by

encouraging the vitality and viability of existing town centres. In order to contribute positively to the mixed-use aims of LP13, town centres should be 'inclusive places for all users and attractive places for pedestrians, cyclists and public transportation users. In order, to conserve and enhance this, the local character, heritage and the public realm should be a focus of future development.'

Paragraph 90 of the NPPF supports a mixed-use town centre that includes housing to grow and strengthen town centres. Residential development in town centres is supported in the Kirklees Local Plan under LP15 so long as it does not conflict with the purposes of a Town Centre. The development will maintain the existing shop front, which is within a Primary Shopping Area. The street will therefore retain its retail qualities by maintaining a retail use whilst changing the use of sections of the building do not form the active street frontage.

The site is located within a pedestrian-accessible network close to the main shopping and retail area of Cleckheaton. Cleckheaton bus station is within walking distance of the application site. The area of the site has a high amount of retail space. A mixed residential and commercial use in the area would benefit the economic strengths of the area, whilst supporting the footfall of local businesses. Currently the retail unit has been vacant since August 2023. The retail unit whilst being reduced in size would remain open providing an opportunity for a retail unit in the town centre. Given this, there is sufficient justification for supporting the change of use for part of the site.

Summary

It is considered that the change of use is supported by Policy LP 13 & LP 15 of the Local Plan whilst the provision of an additional residential unit would be in compliance with Policy LP11 of the Kirklees Local Plan and paragraph 11 of the NPPF. Further to this, LP7 'encourages the reuse or adaptation of vacant or underused properties'. As such it is considered that the principle of conversion to residential apartments is acceptable subject to matters regarding character, design and access.

Impact on Visual Amenity

The proposal does not include alterations to the external fabric of the building. The building will remain as it stands. Windows will be replaced with Upvc frames to improve the thermal efficiency of the dwelling. It is a characterful building due to the stone exterior and large window openings. Entrances for each establishment are existing. The plans respect the existing character of

the townscape by its nature of retaining the building in its present form, therefore complying with Policy LP24 & LP25 of the Kirklees Local Plan.

Impact on Residential Amenity

Policy LP24 of the Kirklees Local Plan states good design should be at the core of all proposals, including of which is that design 'provide a high standard of amenity for future and neighbouring occupiers.

There are no additional openings proposed other than what currently exists. There are existing views to the east, west and south. The area is a built-up part of the town centre with established distances between the buildings. Although the first & ground floors will now be inhabited, as the outlook is existing and other properties are commercial the relationship is acceptable.

Amenity of the Proposed Occupiers

Principle 16 of the Housebuilders Design Guide SPD states that: *"All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan."*

Guidance as to the suitable standards for internal space are set out in the House Design Guide SPD, which states in paragraph 9.1, *'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'*.

The floor plans indicate the dwelling will have two-bedrooms, with living accommodation in the other rooms. It is acknowledged that the internal layout can change, and other rooms could be advertised as bedrooms. Rooms are generally spacious, those indicated as bedrooms conform to the Nationally Described Space Standard, whilst having a satisfactory outlook onto Northgate.

Principle 17 of the Kirklees Housebuilders Design Guide states all new houses should have adequate outdoor space that is functional and proportionate to the dwellings. There is no associated functional outdoor space provided to the future residents of the dwellings.

The development is classed as a sustainable development as it is located in a central location. Cleckheaton Recreation ground is ~320m to the east, which leads on to open countryside. The bus station is ~340m away. there are

accessible transport links that can be sought within the town centre. Given the proximity to open green space and local transport links, the requirements of Principle 17 are met.

Impact on Highway Safety

In terms of parking the Kirklees Highway Design Guide states a dwelling with 2 bedrooms, should have a minimum of two parking spaces. The dwelling is in a town centre location, it is an existing site. Whilst it is recognised there are parking issues in the town centre, a sole site would not be to the detriment of an existing shortfall in town centre spaces. There is a bike storage area.

A bin refuse area has been proposed to the rear of the building for the residential dwelling and the retails unit. No information has been submitted in terms of collection of refuse frequency, or type of bin storage. As such it will be conditioned that such information is submitted in writing as a condition.

Environmental matters

Noise

Due to the change of use a residential dwelling will share a party wall with the commercial retail units below. It will be conditioned that sound insulation is installed between the residential flat and commercial property is installed to protect the amenity of the occupant(s). KC Environmental Health have considered that the airbourne noise between the new dwelling and proposed flat should be reduced by 55db. Consideration has been given to the use of the shops below, which are retail outlets. Access to the party wall between the living room and retail shop would not necessarily be possible to attain such a level of sound insultation. A condition will therefore be set for the applicant to demonstrate that the airborne sound insulation performance of the party floors/walls of the development is of a minimum of 43dB, in this instance.

Historic Coal Mining

The site rests in a high-risk coal area due to historic mining in the area. The building is an existing two-storey building. There will be no additional foundation or footings built as the works are mainly internal, therefore the works fall under the exemptions list presented by The Coal Authority.

Conclusion

The application for planning permission for a change of use at 11 Foundry Street has been assessed against relevant policies in the development plan

as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable principle of a change of use and lack of harm in terms of visual amenity, residential amenity and highway safety, the proposed change of use is considered to be acceptable.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole, constitute the Government's view of what sustainable development means in practice.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: - 2024/90436

Officer Recommendation: Permission Granted

Conditions and Reason(s)

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 to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no additional door or window openings other than those expressly authorised by this permission shall be constructed in the building at any time, without written permission from the planning authority.

Reason: So as not to detract from the amenities of the adjoining property by reason of loss of privacy and comply in accordance with the requirements of Policy LP24 of the Kirklees Local Plan and the provisions of the Kirklees House Extensions and Alterations SPD (2021).

4. Before development commences details of the management and maintenance of residential and commercial refuse storage areas by a designated private management company shall be submitted to and approved by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter

Reason: In the interests of highway safety, to achieve a satisfactory layout and to comply with policies LP21, LP22, LP24 and LP43 of the Kirklees Local Plan and chapter 12 of the NPPF.

5. Before construction work commences a report specifying the measures to be taken to protect the development from noise from all significant

noise sources (including road traffic/deliveries and commercial premises), likely to affect the proposed development, shall be submitted to and approved in writing by the Local Planning Authority.

The report shall:

- a) Determine the existing noise climate
- b) Predict the noise climate in living rooms (daytime), bedrooms (night time) and other habitable rooms of the development
- c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. Before the development is brought into use written evidence to demonstrate that the airborne sound insulation performance of the party floors/walls of the development is of a minimum of 43dB DnTw + Ctr shall be submitted to and approved in writing by the Local Planning Authority. If it cannot be demonstrated that the aforementioned airborne sound insulation performance has been achieved, a scheme incorporating further measures to achieve the sound insulation performance shall be submitted to and approved in writing by the Local Planning Authority. All works comprised within those further measures shall be completed and further written evidence to demonstrate that the aforementioned sound insulation performance level has been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: All noise assessments should be carried out by a competent person. The applicant may wish to contact the Association of Noise Consultants <http://www.association-of-noiseconsultants.co.uk/> (020 8253

4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Grouped plan and elevation	4172.015A	A	15/02/2024
Existing floor plans – basement	4172.002	-	15/02/2024
Existing floor plans – ground floor	4172.003	-	15/02/2024
Existing floor plans – first floor	4172.004	-	15/02/2024
Proposed floor plans - basement	4172.005	-	15/02/2024
Proposed floor plans – ground floor	4172.006	Sk1	20/05/2024
Proposed floor plans – first floor	4172.007	SK1	20/05/2024
Existing and Proposed E and S Elevations	4172.010	-	15/02/2024
Existing and Proposed W and N Elevations	4172.011	-	15/02/2024
Bin storage plans	4172.006(2)	A	15/02/2024
Design and Access Statement	DAS	2024 02 07	15/02/2024
Climate Change Statement	CCS	-	15/02/2024

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 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. It was considered the internal layout would need altering as bedrooms 2 & 3 had poor outlooks. Internal alterations were presented.

