

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:	2024/62/90545/E
Site Address:	16, Crackenedge Lane, Dewsbury, WF13 1PT
Description:	Change of use of first and second floors from C4 House of Multiple Occupation to Sui Generis House of Multiple (10 bedrooms)
Recommending Officer:	Elenya Jackson

DECISION – CONDITIONAL FULL 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.

John Holmes

AUTHORISED OFFICER

Date: 15th August 2024

Site Description

The application relates to 16, Crackenedge Lane, Dewsbury and specifically the first and second floor accommodation, this previously formed vacant storage space located above the existing café unit on the ground floor. This storage use was not associated with the ground floor unit.

The first and second floors are accessed via a separate staircase which leads directly to Crackenedge Lane. There are openings to the front and rear elevations. Immediately to the rear of the property is a further apartment block which has recently been granted planning permission for its conversion into apartments.

The application site occupies a central position in Dewsbury town centre and there is a mixture of uses within the immediate surrounding area.

Description of Proposal

Planning permission is sought for the change of use of the first and second floor storage area (B8) to house of multiple occupation (C4) with 10no bedrooms. Each floor would contain 5no bedrooms, 2no bathrooms and a kitchen/dining area. The room size varies from 13m² to 17m². The plans are matching to those provided in support of the previous application 2018/62/91855/E. However, the noise conditions were never discharged for this application.

Additional side facing windows are to be provided to support the application.

There is no parking provision proposed on the plans and no associated bin storage has been shown either.

History of negotiations/amendments received

Details of the noise assessments associated with this site were requested by officers.

Relevant Planning History

2018/62/91855/E: Change of use of first and second floor storage area (B8) to house of multiple occupation (C4) on this application site. Approved 95/91789 – Change of use of 1st and 2nd Floor Offices to HMOs for students on this application site – approved

2016/90278 – Change of use from learning centre (D1) to 16no apartments at Manor House (to the rear of the site) – approved

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015). The application has been publicised on the Council's website and by neighbour notification letter.

Final publicity date expires: 24th April 2024

No third party representations have been received.

Consultation Responses

KC Highways Development Management – formal comments 2/05/2024 no objection. Informal consultation 17.04.2024 requesting details of cycle and bin storage.

Police Architectural Liaison Officer – no comments

K.C Environmental Health – Initially consulted on the application and requested details of a noise report. This was provided which had the details associated with the previous application. During re consultation, KC Environmental Health commented that the reports were out of date and updated reports were required. Updated reports received and considered acceptable by Environmental Health.

Strategic Housing: No comments.

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).

The application site is within the Dewsbury Town Centre boundary as identified within the Kirklees Local Plan.

Kirklees Local Plan:

LP1 – Achieving sustainable development

LP2 – Place shaping

LP15 – Residential use in town centres

LP18 – Dewsbury town centre

LP20 – Sustainable transport

LP21 – Highways and access

LP22 – Parking

LP24 – Design

LP52 – Protection and improvement of environmental quality

Supplementary Planning Documents:

- KC Highways Design Guide 2019

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 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 7** – Ensuring the vitality of town centres
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 11** – Making efficient use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment

Legislation:

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.

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) Other matters
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is unallocated on the KLP. Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the NPPF. Policy LP2 of the KLP sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the KLP.

Chapter 7 of the NPPF refers to the vitality of town centres and states that policies and decisions should support the role that town centres play at the

heart of local communities and paragraph f refers to the role that residential development plans in ensuring the vitality of centres.

LP15 of the Kirklees local plan refers to residential uses in town centres and states that they will only be acceptable subject to protecting primary shopping areas. It is considered that as the proposal relates to the upper floors of the property the development would therefore be acceptable in this regard as ground floor units would remain possible to use for commercial purposes.

Also of relevance is policy LP18 which sets out the following:

‘Dewsbury Town Centre will be a place of vibrancy, vitality and diversity, with a mix of uses to attract visitors and provide new space for town centre living. The town centre will form the focus for retail provision for the north of the district, supported by other main town centres uses. Proposals within the town centre will be supported where they.... (d) provide space for town centre residential living’

It is considered that the proposal would accord with Lp15 and would also accord with LP18(D).

There are no specific policies within the KLP concerning the conversion of buildings into Houses in Multiple Occupancy (HMO's). Chapter 11 of the NPPF however states that planning decisions should promote the development of under-utilised land and buildings, but this must not be at the expense of creating developments that function well and add to the quality of the area as set out in Chapter 12. It will further be assessed having regards to the aims of LP24(a) & (b), that development should conserve the character of the townscape and ensure that a good standard of amenity is maintained for existing and future occupiers, the need to promote sustainable transport, and ensuring that development does not adversely affect the safe or convenient use of the highway as set out in Policies LP21 and LP22.

Taking the above into account, the principle of a HMO is considered to be acceptable subject to all other material planning considerations being satisfied, which is discussed in further detail in the following report.

2 – Impact on visual amenity:

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design.

In this instance, additional windows have been provided in the side elevation of the property which were agreed during the previous application.

There would be no other direct changes to the external fabric of the building. All alterations would be internal. The works would therefore have no impact upon visual amenity or character of the street scene or wider area.

It is therefore considered that the proposed development would support the aims of the relevant Local Plan and NPPF policies concerned with visual amenity. This would require, however, issues such as bicycle storage, bin storage and collection arrangements to be appropriately conditioned in the interests of visual amenity.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Policy LP52 is considered to be of relevance and sets out that development must be considered in relation to potential for increases from pollution, in this case the relevant possible increases could relate to noise, light & odour emissions.

Impact on surrounding / neighbouring occupants

It is considered that the level of noise likely to be generated, both from within the premises, and that arising from any vehicle movements associated with it, would be of a level that is not untypical in a residential area. Furthermore, the property is situated on a fairly busy road so there would be a certain level of noise to begin with.

Any excessive or unreasonable noise, should it occur, could be dealt with under environmental health powers as a statutory nuisance. In addition, following consultation with Environmental Services, no concerns have been raised.

The windows in the upper floors of the properties that are directly opposite this building serve non-residential uses. There are none within residential use. The building to the rear of the site has received planning permission for its change of use to residential use comprising of 16 apartments by virtue of application ref: 2016/90278. In order to avoid windows at a close proximity with these apartments, windows have been inserted into the side elevation and existing will be retained and a number of windows are annotated upon the submitted plan to be obscurely glazed. Taking account of the planning history, and previously permitted use, as well as the mitigation included in the submitted plans, it is considered the proposal would have an acceptable impact in this regard.

In terms of the insertion of the windows into the side elevation which is now proposed, there would be no direct relationships with any other openings used for habitable rooms that are identified on the Council's mapping system.

Impact on future occupants

No basement accommodation would form part of the scheme.

The number of units within the building would be 1. The internal arrangement allows each room to have an adequate outlook and level of natural light penetration. To facilitate this, windows would be created in the side elevations of the building which would serve bedrooms and the kitchen/dining area. The plans show that the existing openings in the rear openings would be obscurely glazed and this element can be conditioned. There is approximately 15m between the front elevation of the application property and the front elevation of the property opposite. The upper floors of this opposite properties are not registered as being within residential use nor do they have any relevant applications on them for this use.

A License is required for all privately-rented HMOs that accommodate 5 or more persons forming two or more households. Local councils are permitted to set their own standards, which may include space standards. Local Planning Authorities are however obliged to take into account all material planning considerations in determining a planning application, including residential amenity for future occupants, even if these are potentially duplicated by other sets of controls.

The Nationally Described Space Standards contain no specific standard for HMOs, nor for houses in excess of 6 bedrooms. However, Kirklees Council has its own amenity standards for Houses of multiple Occupation which can be found at the following link:

<https://www.kirklees.gov.uk/beta/housing/pdf/HMO-amenity-standards.pdf>

Whilst it should be noted that this is not an adopted planning document and therefore carries very limited weight in the determination of this application, it does provide a useful guide as to the standard of amenity that is considered acceptable for a HMO.

Section 8.1 of this document refers to one unit of accommodation with cooking living and sleeping facilities and states that one room for one person should have an area of 13m², where the occupants would have two or more rooms within cooking, living and sleeping facilities, a single bedroom should have an area of 6.5m² and a double room should have an area of 10.2m² (non of the units associated with this proposal have two or more rooms). The Livingroom for a single person unit should be 9m² and a two person unit should be 10m².

This then goes onto assess shared accommodation and states each living room should have a minimum living room size of 8m² plus an additional 1m² per person.

In this case, the approximate floor space for the bedrooms are as follows:

- Bedroom one: 13m²
- Bedroom two: 14m²
- Bedroom three: 17m²
- Bedroom four: 15.6m²

- Bedroom five: 15m²
- Bedroom six: 13m²
- Bedroom seven: 14m²
- Bedroom eight: 17m²
- Bedroom nine: 15m²
- Bedroom ten: 13m²

A noise assessment has been carried out, the most recent assessment being a noise validation test (document ref: NVT/11552/24/11762) with baseline noise measurements undertaken between approximately 12:25 hours on Monday 10th June and 1100 hours on Tuesday 11th June 2024. The result were considered within the submitted assessment to be at an acceptable level.

The Council's Environmental Health Team have been consulted, and stated in their consultation dated 17th July and has stated the following:

'A further Noise Validation Test, by ENS, dated the 1st of July 2024 has been submitted. The new report has provided clarification of compliance with internal noise levels, taking baseline readings from inside two bedrooms at the development front and rear. The daytime and night time sound levels meet with the requirements of BS8223 and are accepted'

It is therefore considered that the impact of the proposal in relation to noise has been adequately assessed and would be acceptable.

In summary, it is considered that the conversion of the property to a 10-bedroom HMO, would provide an acceptable level of amenity for future residents and would therefore comply with the aims of Policy LP24(b) and those of NPPF Chapter 12, paragraph 135(a&f).

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. These policies seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

KC Highways DM has been consulted on the application due to the site having the potential to generate an increased number of trips to and from the site.

Highways DM have not raised any concerns in their formal comments

Given that Highways Development Management have not raised any objection to the proposal, it is considered that the proposal is appropriate for the site from a highway perspective and for the intended use, and that the

local highway network is of a sufficient standard to take on any additional traffic generated.

There are no details of cycle parking or bin storage provided to support the application; however, it is considered that there would be sufficient space within the red line boundary of the application to provide such facilities. As such, such facilities can be secured by condition.

Subject to the bin and cycle store being provided and thereafter retained, which can be conditioned, the development would accord with the aims of policies LP21 and LP22 of the KLP.

5 – Other matters:

Biodiversity:

The site is not currently known to populate any protected flora or fauna. Given that it is a change of use with no new build, or any substantial external works being proposed (or internal works within the roofspace), it is considered that it would be unreasonable to seek enhancement. The proposal is not in an area with a known presence of bats and therefore the proposal would have an acceptable impact on biodiversity.

Climate Change:

On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan 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.

In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. As the proposal is for a change of use to an existing building within an urban area it is considered however that that it would contribute to making more efficient use of land in a relatively sustainable location. It is considered that in the circumstances the applicant does not need to demonstrate further measures to combat climate change and the proposal is deemed to be in accordance with the aims set out above and set out in NPPF Chapter 14.

Air quality:

To promote sustainable means of transport in accordance with government guidance on air quality mitigation and reducing greenhouse gas emissions, in

accordance with the aims outlined within Planning Practice Guidance, Policy LP20 and LP21(g) of the Local Plan and Chapter 15 of the National Planning Policy Framework, the installation of a new electric vehicle charging point(s) is not considered to be a reasonable requirement in this case, taking account of the sustainable location of the proposal close to public transport links and the constraints in relation to being able to effectively provide such infrastructure for the development type for which consent is being sought.

Crime and security:

The Police Architectural Liaison Officer raised no concerns to the proposal and considered that the proposal would comply with the aims of chapter 8, chapter 11 and chapter 12 of the NPPF. The proposal is therefore considered to be acceptable having regard to safety / security considerations.

Conditions

It is noted the development the subject of this application has commenced, as such no condition requiring the development to be started within 3 years would be included and conditions would be worded to reflect the retrospective nature of the development.

6 – Representations:

No representations received during the course of the application.

7 – Conclusion:

To conclude, the principle of the change of use to a HMO is considered acceptable. Following receipt of a noise assessment, it is now also considered that the standard of amenity for future occupants would be sufficient, as well as residential and visual amenity as a whole. Furthermore, with the inclusion of conditions relating to bin and cycle storage, the proposals would comply with relevant local and national policy.

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 and is considered acceptable.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2024/90545

Officer Recommendation: APPROVE

Conditions and Reasons

1. 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, in the interests of visual and residential amenity and highway safety, in accordance with Policies LP20, LP21, LP22, and LP24 of the Kirklees Local Plan and Policies within the National Planning Policy Framework.

2. Within one month of the date of this decision notice, a scheme which details all areas to be used for the storage and collection of wastes from the premises shall be submitted in writing to the Local Planning Authority. These areas shall be provided within two months of the issuing of the written approval of the scheme by the Local Planning Authority and thereafter retained and kept clear of all obstructions.

Reason: To ensure that the development has adequate facilities for the separation and storage of wastes and to ensure that they can be collected without causing an obstruction to the public highway, so as to accord with the aims of Policies LP21 and LP24(d)(vi) of the Kirklees Local Plan.

3. Within one month of the date of this decision notice, a scheme which details cycle storage provision shall be submitted in writing to the Local Planning Authority. The cycle storage shall be provided within two months of the issuing of the written approval of the scheme by the Local Planning authority and thereafter retained and kept clear of all obstructions.

Reason: To ensure that the development has adequate facilities for cycle parking provision in the interest of achieving a sustainable development, so as to accord with the aims of Policy LP24 of the Kirklees Local Plan

Construction Site Working Times – Footnote

It is recommended that noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00hours Saturdays

With no noisy activities on Sundays or Public Holidays

Construction Sites working times – Footnote

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 notices

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
Location Plan	Drawing D01	A	1/03/2024
Proposed plans and elevations	P 02	B	31/05/2024
Proposed Floor Plans	D02	A	1/03/2024
Noise assessment	NIA/8814/19/8735/v1/16 Crackenedge Lane		17/07/2024

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 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. An updated noise impact assessment has been provided and the application considered acceptable.