

**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>2024/62/90774/W</b>
Site Address:	3, Horseshoe Yard, Market Street, Milnsbridge, Huddersfield, HD3 4ND
Description:	Change of use from car wash to car sales including rebuilding of office/valet building and erection of 2m high screen security fencing (within a Conservation Area)
Recommending Officer:	Laura Yeadon

**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:** 5<sup>th</sup> June 2024

## **Officer Report**

### [Website](#)

## **Site Description**

The application site is currently a vacant site with its latest use being as a car wash. The site is located within the Milnsbridge Conservation Area as defined within the Kirklees Local Plan. The area of land fronts Market Street and is bound by mesh fencing. The site is relatively flat and all associated buildings that have been used on the land historically have been removed. Access to the land is to the south-east, off Market Street which is shared with a number of commercial units. Adjacent to the site is the Four Horseshoes public house

Surrounding development is comprised of both residential and commercial units.

## **Description of Proposal**

The application is for the change of use from car wash to car sales including the rebuilding of office/valet building and erection of 2m high security fencing.

### Change of use

It is proposed that the use of the land would be changed from a car wash to car sales. The history of the site and Google Streetview historical images demonstrate that the site has been historically used for car sales. It is proposed that 2 no. car spaces would be created for office staff with 2 no. visitor spaces with 2 no. full time in employees and 2 part time employees, therefore the equivalent of 3 no. full-time employees. The proposed opening hours would be 9am to 8pm Monday to Friday, 9am to 6pm on Saturdays and 9am to 6pm on Sundays and Bank Holidays.

### Office/valet building

It is proposed that an office/valet building would be located within the western corner of the site, adjacent to the retaining boundary. The building would have a width of 11.5 metres, depth of 5.6 metres with an eaves height of 2.5 metres with a mono-pitched roof which has an overall height of 3 metres. It is proposed that the building would be constructed from timber with an EDPM rubber roof and uPVC windows and doors. It is proposed that the internal accommodation would be an office area, car preparation area, kitchen, waiting area and WC.

### Security fencing

It is proposed that the entire site would be bound by 2 metre high security fencing.

**Officer note:** It is noted that the submitted details and application form include details regarding signage. The signage is subject to a separate application for advertisement consent which is being assessed under application number 2024/90775 and will therefore not be assessed as part of this application.

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

No negotiations have taken place with the applicant/agent due to the application being considered acceptable in its submitted format.

### **Relevant Planning History**

2017/91454 Change of use from car sales to car wash and valet (within a Conservation Area)  
*Conditional Full Permission*

2017/93604 Erection of canopy and re-siting of cabin (within a Conservation Area)  
*Conditional Full Permission*

2020/93050 Formation of vehicular access (within a Conservation Area)  
*Refused*

2024/90775 Advertisement Consent for erection of non-illuminated signs (within a Conservation Area)  
*Not yet determined – under consideration*

### **Representations**

We are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, site notice and newspaper advertisement.

Final publicity date expired 18<sup>th</sup> May 2024

Parish/ Town Council – not applicable

As a result of the public consultation period one representations have been received with the summary of comments set out below:

- If successful would be brilliant for the appearance of the site
- Layout would improve the visibility of the site

### **Consultation Responses**

K.C Conservation and Design – informal comments – building should be finished in a dark colour and the fencing should be black

K.C. Highways Development Management – no objection

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

The site is within the Milnsbridge Conservation Area within the Kirklees Local Plan, the site falls within an area with a known presence of bats.

### Kirklees Local Plan:

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and geodiversity
- **LP 31** – Strategic Green Infrastructure Network
- **LP 35** – Historic environment
- **LP52** – Protection and Improvement of Environmental Quality

### Supplementary Planning Documents:

- Highways Design Guide SPD

### National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 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.

- Chapter 2 – Achieving sustainable development
- 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 & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

## Legislation

The Town & Country Planning Act 1990 (as amended).

The Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990

The Planning and Compulsory Purchase Act 2004.

Section 17 of the Crime and Disorder Act 1998 (as amended)

The Conservation of Habitats and Species Regulations 2017

## **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity and Conservation Area
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

### 1 – Principle of development:

The site is within the Milnsbridge Conservation Area. Section 72 of the 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. This is mirrored in Chapter 16 of the National Planning Policy Framework and LP35 of the Kirklees Local Plan.

Policy LP1 of the Kirklees Local Plan states that:

*“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”*

Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

The application site is located within the Strategic Green Infrastructure Network on the Kirklees Local Plan. Consequently, the proposal also needs to be considered against the requirements of Policy LP31 which seeks to safeguard and enhance green infrastructure networks, green infrastructure assets and the range of functions that they provide. It is considered that this proposal, which is for the change of use from car wash to car sales on vacant land on a site which is already surfaced in hardstanding and has no greenery, would reasonably meet the requirements of this policy.

The above listed policies and guidance are taken into account within sections below of this report. On the basis the development is considered acceptable with regard to the considerations set out in the following sections of this report, the proposal is considered to be acceptable in principle.

**NOTE:** The use of the site, for car sales, would be a sui generis use. As such it is considered that the development would not lead to a town centre use being undertaken in an out of town location and therefore consideration of the development against policy LP13 of the Kirklees Local Plan and / or policies within Chapter 7 of the NPPF is not necessary / applicable in this case.

## 2 – Impact on visual amenity and Conservation Area:

Policy LP24 (a), sets out that proposals should promote good design by ensuring “the form, scale, layout and details of all development respects and enhances the character of the townscape”.

In terms of the change of use of the land subject to this application, there is no proposed alterations to the existing layout of the land itself and the site has historically been used for a number of years as a car sales use. Therefore, it is not considered that the changing of the use of the land would have a detrimental effect on the character and appearance of the local area or the wider Conservation Area.

With regards to the proposed office/valet building, there have been previous buildings within the site with a similar structure to that proposed evident between 2014 and 2019. The building would be constructed from timber with a central garage door and personnel doors and to either side providing access into the office space and waiting area. The building would be located within the western corner of the site adjacent to the rear boundary set away from the roadside. Given the previous use of the site for car sales and the building would be used ancillary to the use of the land for car sales, it is not considered that the building would be visually intrusive, nor would it detract from the Conservation Area or visual amenity in general. It is noted that informal comments have been received from Conservation and Design requesting that the building is finished in a dark colour however given that the timber will weather over time, it is not considered necessary to impose a condition regarding this in this instance.

It is proposed that 2 metre high fencing would bound the site and replace the existing fencing which is need of replacement. The site has been historically bound with security at an approximate height of 2 metres and therefore, to replace it is considered visually acceptable. The colour of the fencing has not been specified however the image supplied indicates that it would be green. In the interests of visual amenity and the wider Conservation Area, a condition shall be attached specifying this to be black.

The proposed works and development of the site would bring a vacant site back into use and would have an acceptable impact on visual amenity, in accordance with the requirements of policies LP1, LP2, LP24 and LP35 of the

Kirklees Local Plan and policies within Chapter 12 and 16 of the National Planning Policy Framework.

### 3 – Impact on residential amenity:

Policy LP24 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and 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.

The site is surrounded by both residential and commercial units. It is considered that the use of the site for car sales would result in a less intensive use of the site than the use of the site as a car wash which would likely result in less noise levels to the occupiers of neighbouring residential properties. It is considered that the proposed opening times are considered to be acceptable in this case.

The proposed opening hours would be 9am to 8pm Monday to Friday, 9am to 6pm on Saturdays and 9am to 6pm on Sundays and Bank Holidays. It is considered that a start time of 8am would not be unreasonable given the nature of the use / character of the locality. However, to ensure that 24 hour use of the site is not undertaken (which could lead to a level of noise and disturbance) it is recommended that any approval is subject to condition requiring the hours of use to be between 8am and 8pm Monday to Friday, 8am and 6pm on Saturdays and between 9am and 6pm on Sundays and Bank Holidays.

As with the previous approval of permission on this site, it is recommended that if any artificial lighting is proposed before the development is brought into use, that a scheme indicating the measures to be taken for the control of any glare or stray lighting arising from the operation of artificial lighting shall be submitted to and approved in writing by the Local Planning Authority which would be required to be operated in accordance with the approved scheme.

Therefore, it is considered in terms of residential amenity, subject to conditions the works are acceptable. It is considered there will be no significant impact on neighbouring properties, in terms of overshadowing, overbearing or overlooking, and the proposal would accord with the aims of policies LP1, LP2, LP24 & LP52 of the Kirklees Local Plan, as well as policies within Chapter 12 of the National Planning Policy Framework.

### 4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application

In this case the Council Highways Development Management Team were formally consulted as part of the application process. The comments received cite that the site was used as a car sales unit prior to its current use a car wash and that the access will remain as existing and is acceptable. The comments conclude that the application for car sales, should, on balance, generate less traffic than the current use as a hand car wash and therefore there are no objections to the works from a highways perspective.

It is therefore concluded that, having regard to the current use of the site, and its former use for car sales, the proposed development would not have a significant impact on access and highway safety given it would operate utilising the existing access points and likely lead to a lesser amount of traffic movements associated with the site.

#### 5 – Other matters:

*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.

Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development. However, a Climate Change Statement has been submitted which confirms that the building would have a thermostatically controlled heating system and that the insulation of the building would be above the requirements of building regulations.

*Biodiversity* – Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not required in this instance. This is due to the proposal for the office/valet building is a new building and single storey in height.

However, as a cautionary measure, and to ensure accordance with the aims of Chapter 15 of the National Planning Policy Framework, a footnote shall be attached to the permission setting out that, should any bats be found using the building then works must cease and appropriate advice sought.

*Strategic Green Infrastructure Network* – The site is within the Strategic Green Infrastructure Network and therefore Policy LP31 is of relevance in this instance. The role of the Network is to safeguard and enhance green infrastructure networks, green infrastructure assets and the range of functions they provide. As the proposed works would be within the confines of the curtilage of the site, it is not considered that the proposed works would be detrimental to the aims of Policy LP31 of the Local Plan.

#### 6 – Representations:

The representations received are noted, and taken into account in the determination of the application.

#### 7 – 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 development would constitute sustainable development and is therefore recommended for approval.

**Recommendation**

**APPROVE**

**Decision Authorisation - Delegated Powers**

**Application Number:** 2024/90774

**Officer Recommendation:** Approve

**Conditions:**

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP30, LP31, LP35 & LP52 of the Kirklees Local Plan, and with Policies within Chapters 2, 9, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. No external lighting shall be installed within the site outlined in red on the hereby approved location plan unless details have first been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall indicate the measures to be taken for the control of any glare or stray light arising from the operation of external lighting and the proposed hours of operation. The external lighting shall be installed in accordance with the measures so approved and thereafter the external lighting shall be operated in accordance with the approved scheme.

**Reason:** In the interests of residential amenity and in accordance with Policies LP24 & LP52 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. The security fencing hereby approved shall be factory applied powder coated black colour finish which shall be retained thereafter.

**Reason:** In the interests of visual amenity and the Milnsbridge Conservation Area and to accord with Policy LP24 and LP35 of the Kirklees Local Plan and advice within Chapters 12 and 16 of the National Planning Policy Framework.

5. The use hereby permitted shall not be open to customers outside the hours of 08:00 to 20:00 Monday to Friday, 08:00 to 18:00 on Saturdays and 09:00 to 18:00 on Sundays and Bank Holidays.

**Reason:** In the interests of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework.

**NOTE:** The Council's GIS system indicates that the property is within a bat roost area and may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

**NOTE:** This permission does not grant consent for signage. An application for the signage is subject to a separate application under number 2024/90775.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan and proposed ground floor			25 <sup>th</sup> March 2024

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
plan			
Proposed site plan and building elevations			25 <sup>th</sup> March 2024
Fencing details	Image		25 <sup>th</sup> March 2024
Climate Change Statement	Appendix A		28 <sup>th</sup> March 2024
Heritage Statement			2 <sup>nd</sup> April 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. The Case Officer did not undertake any negotiations with the applicant due to the application being considered acceptable in its submitted format.

**Report Dated:** 4<sup>th</sup> June 2024

Coal – none