

**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>2024/62/90800/W</b>
Site Address:	Prime Property Rentals, 115, Bradford Road, Fartown, Huddersfield, HD1 6DZ
Description:	Change of use from offices to takeaway and 2 additional dwellings, dormer windows to front and rear, new shop front, windows and associated works
Recommending Officer:	Tom Hunt

**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.**

John Holmes

***AUTHORISED OFFICER***

**Date:** 24<sup>th</sup> May 2024

## **Officer Report**

### **Site Description**

2024/90800 – Prime Property Rentals, 115, Bradford Road, Fartown, Huddersfield, HD1 6DZ

The application site relates to a two-storey building which is constructed of natural stone with slate to roof. It fronts onto the pavement with a closed hatch, has a covered passageway to its side and has a single-storey rear extension. To the rear, is a two-storey semi-detached dwelling adjoining the extension.

The building is mixed use, currently a shopfront with offices and storage in its basement and a three-bedroom flat within the first and attic floor.

It lies within Hillhouse Local Centre, and the west side of the road is predominantly commercial with several restaurant/cafes and some retail. These properties have a variety of pitch and flat roof dormers of various sizes to the south of the site; to the immediate south neighbour, including the host, and to the north's roofscape, they are uninterrupted by front dormers.

The east side are mainly residential and a row of Grade II Listed Buildings. Those has no front dormers. To the rear, is a warehousing facility separated by mature trees.

### **Description of Proposal**

Change of use from offices to takeaway and 2 additional dwellings, dormer windows to front and rear, new shop front, windows and associated works

It is proposed to have a change of use of the offices at ground floor to be a takeaway. This would have a pick up point/counter with serving area, kitchen and within the extension staff facilities including a W.C. the existing main windows would be divided.

The basement would be a self-contained flat with two double bedrooms, kitchen, shower room, storeroom and living room. This would be 55sqm internally. Access would be created by a new lightwell extending 1.5m from the front elevation and stairs; the lightwell would be partially covered by a walkway to the takeaway covering bedroom 1's window (providing a headway of 2.1m). There would be a low stone wall of 0.8m from ground for the lightwell so that customers would not mistakenly walk into the lightwell.

It is proposed to install a flat roofed, dormer to the front and rear. They would be 7.1m wide, 2.1m height and project 4.3m from the roof plane. They would be tile hung to match the host with openings aligned with existing windows but be visually smaller in height.

The first floor and attic floor would be subdivided into three bedroom units, consisting of two double bedrooms which exceed 11.5sqm and a single bedroom measured as 6.1sqm/2.1m wide. Both would have a kitchen/diner, showerroom and store room. This would be 65sqm internally. They would have access from the ground floor via the covered passageway secured by gated access.

Bins would be set out within the passageway, four business bins and two bins per household. There would be space for one car to be parked to the front of the passageway.

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

None as it was considered the level of amendments required would not supply the level of accommodation sought.

### **Relevant Planning History**

91/00703                      Erection of extension to shop premises to form storage area.

*Conditional Full Permission.*

No pre application advice was sought by the applicant/agent.

### **Representations**

We are currently undertaking 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 press publicity which had a final expiry date of 03/05/2024.

No representations have been received.

### **Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- Environmental Health – No objection subject to conditions and informative notes.
- Public Health – Additional information provided on impact.
- Designing Out Crime – Objection.
- Policy – No Objections.
- KC Highways – Insufficient information supplied to assess.
- KC Highway Structures – Insufficient information supplied to assess.

The responses of Consultees are addressed in the Assessment section of this report.

## **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 Strategic Green Infrastructure Network and Hillhouse Local Centre as identified upon the Kirklees Local Plan. It is opposite a row of Grade II Listed Buildings. The site is within a Bat Alert layer and within a High Risk Coal area

The site falls within Flood Zone 1, although is an area which has been identified as at risk of local, low level surface water flooding.

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

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 7 – Efficient and effective use of land and buildings
- LP 13 – Town centre uses
- LP 14 – Shopping frontages
- LP 15 – Residential use in town centres
- LP 16 – Food and drink uses and the evening economy
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 25 – Advertisements and shopfronts
- LP 28 – Drainage
- LP 30 – Biodiversity & Geodiversity
- LP 31 – Strategic Green Infrastructure Network
- LP 35 – Historic Environment
- LP 52 – Protection and Improvement of Environmental Quality
- LP 53 – Contaminated and unstable land

### **Supplementary Planning Guidance and other considerations**

- Highways Design Guide SPD
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- Hot Food Takeaway SPD (2022)
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)
- Institute of Air Quality Management Land-Use Planning & Development Control; Planning for Air Quality (2017)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions

## Technical Planning Guidance (2016)

### **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 3 – Plan-making
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 6 – Building a strong, competitive economy
- 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 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

### **Legislation**

- Planning (Listed Building & Conservation Areas) Act (1990)

### **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity and heritage assets
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology
- 5) Representations
- 6) Conclusion

#### 1 – Principle of development:

##### *Sustainable Development*

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “*good design should be at the core of all proposals in the district*”.

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.

### *Housing Land Supply*

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 officers assessment.’

However, the provision of housing needs to be balanced against all material planning considerations outlined below.

### *Heritage*

The site is located opposite a row of Grade II Listed Buildings. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority should 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.

In addition, Policy LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework regarding the historic environment support the Act.

Furthermore, LP35 states *“development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in...harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring...public benefits that clearly outweigh the harm”*. This is mirrored in paragraph 208 in Chapter 16 of the NPPF.

Paragraph 203 goes on and states that Local planning authorities should consider:

*“the desirability of sustaining and enhancing the significance of heritage assets... the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and; the desirability of development making a positive contribution to local distinctiveness”* when determining these applications.

When making a recommendation in respect of a planning application affecting a Listed Building or its setting, attention must be given to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to ‘have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses’.

An analysis of whether harm to the significance of these heritage assets would occur will be assessed and discussed later in the report.

### *Hot Food Takeaway*

The proposal is for a takeaway (sui generis) to the ground floor and is within a Local Centre. The relevant primary policies for this would be LP16 of the Kirklees Local Plan and the Council’s Hot Food Takeaway SPD.

KC Public Health and Policy was formally consulted.

The council has a responsibility to enable and support residents to live in and access to healthy environments and ‘healthy places’ is one of the 3 priorities of the Kirklees Health and Wellbeing Strategy.

In Kirklees, 1 in 4 (23%) adults eat fast food or takeaway meals at least once a week, and a further 61% eat fast food or takeaway meals sometimes but less than once a week. Those living in the most deprived areas are the most

likely to eat takeaway at least once a week (26%), and those living in the least deprived areas are the least likely to (18%).

There are also inequalities in obesity rates between different socioeconomic groups.

Among children in year 6, the prevalence of overweight and obesity in the 10% most deprived areas is almost double that in the 10% least deprived. In reception, the prevalence of overweight and obesity is also higher in the 10% most deprived areas.

There is also a marked gradient in obesity levels among adults, with nearly 1 in 4 (24%) of adults in the most deprived 20% of the population compared to less than 1 in 10 (9%) in the least deprived 20%.

In order to reflect the complexities of the obesogenic environment, public health has developed a tool which will support the decision-making process for new applications. The tool makes use of a range of local data in order to assess which areas have multiple risk factors for obesity.

The application was reviewed in relation to its potential impacts and against the relevant factors scored at 18, with a score of 20 or more being considered significantly high. As such the proposal is concluded acceptable in this regard.

LP16 states that proposals for food and drink uses and associated proposals will be supported, provided they are located in a defined centre and subject to ensuring the concentration of food and drink and licensed entertainment uses are not located in a particular centre or part of a centre, where they would result in harm to the character, function, vitality and viability of the centre, either individually or cumulatively.

In order to assess the potential harm of food and drink proposals on a centre, planning applications will be considered against criteria a to g in Policy LP16. Criterion a requires the consideration of the number, distribution and proximity of other food and drink uses, including those with unimplemented planning permission in a particular centre. Currently, there are 45 units in Hillhouse Local Centre of which 16 are in use for food and drink uses or 36% of uses. Therefore, it is considered that there will be no overconcentration of food and drink uses in Hillhouse Local Centre.

Policy LP16 goes on to note that in order to assess the potential harm of food and drink proposals on a centre, the following criteria will be considered with a planning application:

- b) the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas;

- c) the potential for anti-social behaviour to arise from the development, having regard to the effectiveness of available measures to manage potential harm through the use of planning conditions and / or obligations;
- d) the availability of public transport, parking and servicing;
- e) highway safety;
- f) the provision of refuse storage and collection; and
- g) the appearance of any associated extensions, flues and installations.

Also of relevance is the advice in Chapter 8 of the NPPF, stating that planning decisions should ensure that crime and disorder, or the fear of crime, do not undermine quality of life or community cohesion.

Policy LP47j of the Kirklees Local Plan also states that healthy, active and safe lifestyles will be enabled by working with partners to manage the location of hot food take-aways particularly in areas of poor health. Supporting this Policy, the Hot Food Takeaway SPD (HFT SPD) is a key consideration in managing the impacts of health when food and drink proposals are considered.

#### *Hot Food Takeaway Supplementary Planning Document (HFT SPD)*

##### *HFT1 – Public Health Toolkit*

This principle states that proposals for all new hot food takeaways will be assessed against the Kirklees Council Public Health Toolkit. Proposals that are not accepted by the toolkit will be refused, unless other material considerations indicate otherwise. The proposed change of use would score 12 on the Toolkit and therefore passes the Toolkit assessment.

##### *HFT2 – Town Centre Vitality and Viability*

This principle states that hot food takeaways (Sui Generis) will not be supported in a principal town, town, district or local centre where the cumulative impact of introducing the facility would be detrimental to the vitality and viability of that centre. Proposals in Local Centres such as Hillhouse will be considered to be harmful if it meets one or more of three criteria.

Criteria 1 states that hot food takeaways will be considered to be harmful where they increase the concentration of hot food takeaway ground floor units in a centre to more than 15% of all main town centre uses. In the case of this application, the occupancy data for Hillhouse Local Centre shows that there are 45 units in Hillhouse Local Centre of which 5 are in use as hot food takeaways (11% of units). If the proposed use was permitted, 6 units would be hot food takeaways (13.3% of units) Criterion 1 of Policy HFT2 has therefore been met.

Criterion 2 states that hot food takeaway proposals will be harmful where they create a cluster of three or more hot food takeaways together. In the case of this application, the occupancy data and the site survey shows that to the

north of the site are Broadway Hair Salon and Reflexion Beauty and to the south are Saim's Restaurant and Charmaine's Caribbean Café which come under Use Class E(b) 'Sale of food and drink for consumption (mostly) on the premises'. Therefore, it is considered that the proposal will not result in a cluster of three or more hot food takeaways together. Regarding criterion 3, there are no clusters of hot food takeaways adjacent to the application site. Therefore, the proposed development would be acceptable in terms of Principle HFT2.

#### *HFT3 – Proximity to Schools*

This principle states that where planning permission is sought for a hot food takeaway (new or variation of condition) within 400m of the principal entry point to a primary (infant and/or junior or middle) or secondary school, and the proposal meets planning policy in all other respects, planning permission will only be permitted subject to the condition that opening hours are restricted to the following:

- A primary school (infant and/or junior or middle): the hot food takeaway is not open to the public between 3pm and 5pm weekdays and there are no over the counter sales during these times.
- A secondary school: the hot food takeaway is not open to the public before 5pm on weekdays and there are no over the counter sales before that time.

With this site being located within 400m walking distance of a primary school at Birkby Junior School, it would be necessary for a planning condition requiring that the takeaway is not open to the public between 3pm and 5pm on weekdays and there are no over the counter sales during these times. Officers concur with this assessment and any grant of permission would be recommended on the basis of the inclusion of such an hours of use restriction.

#### *HFT4 – Noise abatement and extraction of odours*

The applicant has not submitted any information pursuant to this being assessed however Kirklees Council Environmental Health have recommended a condition to control this matter (Discussed further in Residential Amenity section of this report).

#### *HFT5 – Waste Disposal*

The applicant has submitted that there would be two general waste bins and two recycling bins located within the passageway and screened and stored away from the highway. This is considered to be acceptable.

#### *HFT6 – Takeaway design and community safety*

The shopfront is assessed with the Visual Amenity and Residential Amenity sections of the report. Advertisement Consent would be required for any signage and is not considered within this application.

With reference to the following *“The advice of West Yorkshire Police and the Community Safety Partnership in relation to personal safety or crime and disorder will be given significant weight in determining such planning applications.”*

The Designing Out Crime Officer response stated that they did not support the scheme on the basis of the number of existing food outlets in this street and immediate area. Whilst this is given weight, this has been evaluated against other considerations including that there is no overconcentration of food and drink uses in their occupancy survey (and confirmed within the Officer’s site appraisal). As such, it is considered a reason for refusal on such a basis could not be substantiated in this case.

#### *HFT7 – Highway safety*

Assessed within the Highway Safety section of the report.

Further to this, whilst there is two other food and drink uses adjacent , it is considered that there is a sufficient mixture of other uses locally to prevent such a use becoming the dominant use in the locality, should permission be granted.

Points b-g of Policy LP16 and other relevant matters will be discussed further within the following report.

#### *Principle of development – conclusion*

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. An assessment of the relevant considerations is undertaken in the following sections of this report.

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

#### 2 –Impact on visual amenity:

In terms of visual amenity, general design considerations are set out in Policy LP02, LP24, LP25 and LP35 of the Local Plan, Key Design Principles 1 and 2 of the House Extensions and Alterations SPD, and Chapters 12 and 16 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, respecting and enhancing the character of the townscape, heritage assets and protect amenity. LP24 also requires extensions to be *“subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details”*.

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it

fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

As the proposal seeks to extend an existing mixed-use property, the relevant Principles of the Kirklees Housebuilders Design Guide SPD 2021 are Principle 2 of the SPD for visual amenity which sets out that new proposals are 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”*

The proposal would introduce two significant dormers to the building, while they would be set in from the roof plane boundaries, they would substantially obscure their roof planes and as such cannot be considered small or subservient to the property. Considering the rear, there are examples of similar rear dormers being erected along the west side of the street, being heavily screened from the front by the row of terraced properties and partially the two-storey dwellinghouse adjacent and the industrial park to the rear and therefore potentially acceptable.

The closest equivalent front dormer would be no. 111 separated from the property by no. 113., and while overly large, its height is aligned with the heights of smaller flat roofed dormers. The host building's roof plane is set at a lower level than its neighbouring properties so alignment with other dormers would not be feasible however its size and massing and separation by no. 113's un-extended roof from the neighbours would still introduce a large, isolated and jarring feature to the front. As such, the front dormer's visibility on a busy road would not contribute positively to the row of Listed Buildings opposite.

Whilst matching materials are indicated this is not considered to be such that it would overcome the harm resulting from the excessive bulk and massing. The inclusion of the light well with the stone boundary wall would visually encroach into the highway and serve to reduce the footway and act as a barrier. There are examples of external steps to the front of commercial properties and very limited external steps to basement levels however the alien nature of the lightwell's design by its depth and stone wall and its intrusion into the highway would still lead to an uncharacteristic feature in the streetscene. Whilst the stone materials could harmonise with the host and streetscene, this would not be sufficient to overcome the visual harm of clutter and visual intrusion in the streetscene and would not create a positive and coherent identity.

The extensions and lightwell's covered access would lead to a cramped and contrived development that would read as over-development of this plot. As such, it is considered the overall impact of the development is not considered to preserve the setting / special character of the Listed Buildings opposite the site. Public benefits would be required to clearly and convincingly outweigh the less than substantial harm to the heritage assets.

A Heritage Statement or Design and Access Statement was not submitted to provide reasons. The proposed development has some modest public

benefits, specifically, in providing some additional residential accommodation and bringing a vacant commercial unit back into operation. However, this is not considered to be sufficient to outweigh the level of harm caused by the proposals. As such the development is concluded to fail to comply with Policies LP24 (a and c), LP35 of the Kirklees Local Plan, Chapter 16 of the NPPF and the Council's duties under the Planning (Listed Building and Conservation Areas) Act 1990.

As such, the proposal, by virtue of the addition of an incongruous and isolated substantial front dormer and its stairwell and stone wall visually dominating the front of the site, would result in an overdevelopment of the site and detrimental harm to the visual amenities of the locality, as well as less than substantial harm to the significance of the row of Grade II Listed Buildings along the east side of Bradford Road. Public benefits to outweigh such harm have not been demonstrated. The proposal is therefore contrary to Policies LP24 and LP35 of the Kirklees Local Plan, Key Design Principle 2 of the Housebuilders Design Guide SPD and Government guidance contained within Chapters 12 and 16 of the NPPF.

### 3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan 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 135f) of the National Planning Policy Framework 2023 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Considering the dormer extensions, Key Design Principle 3 of the Kirklees Householder Extensions and Alterations SPD sets out that extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants and neighbours. In addition, Key Design Principle 4 notes that extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light and outlook. Furthermore, Key Design Principle 5 states that extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property, and recommends that a horizontal 45 degree line from a neighbouring habitable room window is not breached. Key Design Principle 6 states extensions and alterations should not unduly reduce the outlook from a neighbouring property.

Considering the subdivision of the host to three flats, Principles 16 and 17 of the Housebuilders Design Guide SPD are taken into consideration.

The proposed extensions and alterations are assessed upon whether they would have a detrimental effect on residential amenity, adjoining dwellings or

any occupier of adjacent land by way of overshadowing, overbearing or overlooking and also in terms of its design, size and visual amenities.

#### *No. 121 Bradford Road*

This property has a centred skylight to its rear roof plane north of the proposed dormer extension. Plans show that this would be separated by ~2m to the skylight offering a limited impact on overshadowing and the bulk and massing of the dormer being modestly visible. The degree of this impact restricted to the rear would be very limited and therefore acceptable.

#### *No.s 17 and 119 Bradford Road*

This property has a blank side elevation facing the rear elevation of the host and its proposed development. There is a plot of land to its north which does not appear to be within its curtilage or included as owned within available land registry records. Officers are unable to ascertain whether this is a private garden for the use of the properties however the dormer to the rear may increase the perception of overlooking however the oblique views would not be significantly different from the existing rear openings of the host. Whilst visually, the rear dormer may appear to hem in the neighbours with its erosion of openness, this would not be so out of character that it would be harmful within the built development to the rear. As such the additional bulk and massing to the rear and fenestration would not have significant overlooking, loss of privacy, loss of outlook or overbearing impact to those neighbours.

#### *No. 113 Bradford Road*

This property is commercial use only and as such would not require assessment.

#### *Other Residential Properties*

It is considered that the proposed development would be sited a sufficient distance at 30m away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

#### *Future Occupiers*

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees 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.”* 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.”*

Turning to the first floor and attic properties, both would be adequately daylit and would offer two double bedrooms each of a sufficient size. The dormers to the roof would provide a headspace of 2.25m for occupants of the attic level, this would appear moderately in line with the recommended 2.3m headspace height recommended in the NDSS. However for the level of accommodation expected, a three bedroom property for four persons on one storey would be required to have 74sqm of gross internal floor area and 2.5sqm of storage space. The proposal would go against this by offering a single bedroom which would be under-sized by 1.4sqm and overall undersized by 11.5sqm for both dwellings. It is noted that whilst the previous accommodation for 3 bedrooms on both floors had some limited headspace in the attic, the site demonstrates that a dwelling unit with a floor space in excess of NDSS guidance for both living quarters and storage could still be provided.

Turning to the basement, the proposed dwelling unit would serve as a two bedroom four person property which would require 70 sqm of living space and 2.5sqm of storage space as guided by the NDSS. Even if Officers limited the occupancy level of the unit by condition to a two bedroom 3 person unit, this would still require 61 sqm of living space and 2.0sqm of storage space. The proposed unit would have an unacceptable and harmful underprovision of 8-17.5sqm to achieve good standards of residential amenity in terms of realistic internal floor space. Due to the dwelling being underground and screened by the stone wall around and the walkway over the lightwell, this would have a poor sense of outlook and overshadowing from windows and totally inadequate daylighting to bedroom two which would have no windows and have all natural light, minimal as it would be, blocked by the internal partitions. This could not be overcome by altering the stone wall boundary to metal railings and would offer an unacceptable level of accommodation to those future occupants.

This cramped form of accommodation would not be sufficient to accommodate good living conditions as supported by the NDSS which is a nationally recognised standard and included in the Housebuilders Design Guide SPD. Officers consider this to have significant weight, and cannot support the harmful and cramped erosion of residential amenity for future occupants. In addition, whilst the proposal would offer no outside amenity space, it could be considered in keeping with the limited provision of amenity space to other residential units.

Paragraph 191 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on living conditions. In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show 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 or have unacceptable impacts on the environment.

Policies HFT4 and HFT5 of the adopted Hot Food Takeaway SPD set out that proposals for new hot food takeaways must demonstrate effective kitchen odour control and extract systems and appropriate noise attenuation measures and that appropriate waste disposal measures are undertaken.

Kirklees Council Environmental Health was formally consulted and raised concerns over noise transmission from the siting of the dwelling units to the busily trafficked highway and the proposed commercial use to the residents. In addition, it was not fully set out how the kitchen extraction and ventilation details would work to adequately control odours near the new sensitive receptors.

It was recommended to attach conditions on noise and a kitchen extraction system to adequately control the impact of this to the future occupants should the proposal be otherwise acceptable. It was noted that hours of operation were not provided to fully assess the impacts however it is considered this could be controlled by suitably worded condition. It is noted that the proposed dormers and the existing single-storey rear extension would restrict potential solutions for the flues to be sited away from sensitive receptors/the two three-bedroom flats to the first and attic floors however it is considered this could be controlled by the recommended condition should the proposal be acceptable.

Litter is a material planning consideration when assessing planning applications for new takeaway outlets. Having regard to the Planning Practice Guidance for Healthy and Safe Communities, should the application be otherwise acceptable, Officers would recommend an informative to be attached to advise landowners and their tenants of their lawful duties to keep land clean and clear of litter and refuse. In addition, Council powers under section 215 of the Town and Country Planning Act 1990 and other relevant powers available to local authorities contained in the Anti-social Behaviour, Crime and Policing Act 2014 and the Licencing Act 2003, would sufficiently ensure that a condition would not be required to manage impact on litter for residential amenity.

When considering the unacceptable impacts on residential amenity in relation to overshadowing, poor outlook and insufficient gross minimum internal floor space for the future occupants of flats within no. 115 Bradford Road, the proposal is therefore contrary to Policy LP24 of the Kirklees Local Plan, the national guidance within the Nationally Described Space Standard, Principle 6 of the Housebuilders Design Guide SPD and Government guidance contained within Chapter 12 of the NPPF.

#### 4 – Impact on highway safety (including Highway Structures)

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. The Council's adopted Highway Design

Guide and Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

Turning to highway safety and parking, policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking. The Highways Design Guide SPD advises that new development should have sufficient off street parking spaces to meet need and to ensure on street parking impact is limited. The Highway Development Management and Highway Structures Officer was formally consulted.

The proposal includes a 2 bedroomed apartment with new light well in the basement, a takeaway to the ground floor and 3 bedroomed apartments to the first and second floors. A parking space is shown to the front within the footway.

The proposed parking space is accessed across the existing laybys along Bradford Road potentially between parked cars which cannot be considered safe and was advised to be omitted from the proposals by Highway Development Management. The site is in a highly sustainable location supporting car free travel with close proximity of services and shops and high frequency bus transport links. Officers concur with this assessment as the parking space would not be required to support the takeaway and occupants in order to be acceptable. Should the proposal be otherwise acceptable, the parking space can be removed by condition or excluded from plans.

The proposal seeks to have a lightwell within the private forecourt of the site. Both Highway Officers concur that it would be required to submit a fully detailed and dimensioned cross sectional drawing perpendicular to A652 Bradford Road to fully assess the impact of the proposal on the adjoining highway.

Officers are directed by the NPPF to have regard for the following under paragraph 115, "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."

Both Highways Officers concur that the proposed development would need to supply additional information for a full assessment. Should the proposal be considered acceptable, then Officers would have requested this to be submitted prior to determination to make a full assessment of the impacts on highway safety.

Notwithstanding this point, taking account of the response of the Highways Team it is considered that insufficient information has been provided to enable a full and proper assessment of the impact of the development upon access and highway safety and this is considered to constitute a further reason for refusal in this case.

In light of the other identified harm in this case submission of further information to enable a full and proper assessment of the impact of the development upon access and highway safety was not requested in this case.

### *Waste*

As previously discussed, waste bins have been set out in the proposed site with storage within the passageway. The capacity has not been stated however it is likely that it would be a standard 240ltr wheeled bin (the plans do not accurately represent the size of the bins but an approximation). The takeaway would have four bins split into waste and recycling.

The three flats would share four bins divided similarly for waste and the Waste Management Design Guide SPD advises that households should have 240ltr bins per waste and recycling. This would raise concerns with regard to how practical this would be to have two waste bins divided between three flats however it would be possible to have a Waste Management Plan to increase the frequency of bin collections with further details controlled by condition.

Officers welcome the storage of bins away from the highway however the level of occupancy required is likely to be impractical when there is no alternate storage locations elsewhere. The lightwell would restrict the storage and presentation of bins to be adjacent to the busily trafficked highway and causing visual clutter and the risk of bins being blown into the highway. There is no further space to the rear to store bins. This undercapacity of a basic domestic and takeaway waste management need within such a constrained plot demonstrates that the site would be overdeveloped.

Despite significant concerns regarding waste management and capacity to accommodate three households and a takeaway, there is the potential, however impractical, to have this managed through a high frequency waste bin collection service to comply with LP16g) and LP24d(vi) of the Kirklees Local Plan.

It is therefore considered that in this case the proposal has failed to demonstrate the development could comply with Policies LP21 and 22 of the Kirklees Local Plan, Principles 12 & 19 of the Housebuilders Design Guide SPD, the KC Highway Design Guide SPD and policies within Chapter 9 of the NPPF.

### 5 – Other matters:

#### *Climate Change*

When determining planning applications, the Council will use the relevant Local Plan policies, Principle 18 of the Housebuilders Design Guide SPD, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

#### *Biodiversity and the Strategic Green Infrastructure Network*

Whilst it is acknowledged that the site is located within the Strategic Green Infrastructure Network, an identified bat alert area and adjacent to the Kirklees Wildlife Habitat Network, the proposals are relatively modest and internal photograph surveys of the sealed and converted attic accommodation do not show any roosting potential. It is therefore considered unlikely that the proposals would have an impact on the bat population. An informative has been provided however, making the applicant aware that if bats are discovered on site during the works, any development shall cease and the applicant is advised to contact Natural England for advice on how to move forward.

The small scale of the proposal would be on an existing hardsurface with no impacts to existing vegetation or biodiversity. As such, it is proposed that this would require no additional compensation or mitigation to improve biodiversity to make it acceptable in line with Principle 9 of the Housebuilders Design Guide SPD, LP 30 and LP31 of the Kirklees Local Plan and Chapter 15 of the NPPF.

#### 6 – Representations:

No representations had been received.

#### 7 – Conclusion:

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

As discussed previously the proposal would fail to offer satisfactory living accommodation to future occupants for good standards of residential amenity and would have harmful impacts on visual amenity and Grade II Listed Buildings on the east side of Bradford Road where public benefits have not been demonstrated to convincingly and substantively outweigh the less than substantial harm.

The proposal is therefore considered to be contrary to policy LP2 which seeks to ensure all development proposals 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.

**Recommendation - Refuse**

**Decision Authorisation - Delegated**

**Application Number - 2024/90800**

**Officer Recommendation - Refuse**

**Reasons**

1. By virtue of the addition of an incongruous, isolated and substantially sized dormer to front as well as the creation of the stairwell and stone wall to the front of the site the development would see the introduction of alterations and built form that would lead have a detrimentally harmful impact upon the visual amenities of the host property and wider locality, as well as lead to less than substantial harm to the setting and significance of the row of Grade II Listed Buildings along the eastern side of Bradford Road opposite the site. Public benefits to outweigh the identified harm have not been demonstrated. The proposal is therefore contrary to Policies LP24 and LP35 of the Kirklees Local Plan, Key Design Principle 2 of the Housebuilders Design Guide SPD policies contained within Chapters 12 and 16 of the NPPF.

2. The internal floor space to serve the proposed two bedroom basement flat and the three bedroom flats to the first floor and attic level would, by reason of not achieving adequate minimum gross internal floor and storage space, provide for a poor standard of residential amenity for the occupiers of these dwellings. This would be contrary to the aims of the national guidance within the Nationally Described Space Standard, National Planning Policy Framework paragraph 135(f) of Chapter 12, Policy LP24(b) of the Kirklees Local Plan and Principle 17 of the Housebuilders Design Guide SPD.

3. The habitable room windows to serve the proposed basement dwelling would, by reason of their relationship with existing ground levels, the lightwell boundary wall and the lack of windows to bedroom two, experience severely restricted levels of light coupled with an unacceptable outlook which would not achieve a high standard of amenity to future occupants of the dwelling. This would be contrary to the aims of the National Planning Policy Framework paragraph 135(f) in Chapter 12, and Policy LP24(b) of the Kirklees Local Plan.

4. Insufficient and inadequate information has been submitted to enable a full and proper assessment of the impact of the development upon access and highway safety and demonstrate compliance with policies LP21 and LP22 of the Kirklees Local Plan, HFT 7 of the Council's adopted Hot Food Takeaway SPD, Principles and Principles 12 and 19 of the Housebuilders Design Guide and policies within Chapter 9 of the National Planning Policy Framework. Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and Existing Floor Plans.	Drawing no. DWG-002.	B	22/03/2024
Location and Proposed Floor Plans.	Drawing no. DWG-004.	A	22/03/2024
Existing Elevation and Section Plans.	No Reference.	Unamended	18/03/2024
Location and Proposed Elevation and Section Plans.	Drawing no. DWG - 003.	Unamended	18/03/2024
Climate Change	-	-	21/03/2024

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and Existing Floor Plans.	Drawing no. DWG-002.	B	22/03/2024
Location and Proposed Floor Plans.	Drawing no. DWG-004.	A	22/03/2024
Statement			

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 significant amendment would be required in this case, and therefore the application was moved to determination on the basis of the information submitted.

**Report Dated:** 20/05/2024