

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	2024/70/90822/W
Site Address:	The Beauty Lounge, 202, New Hey Road, Oakes, Huddersfield, HD3 4BU
Description:	Variation condition 2 (hours of operation) on previous permission 2014/93693 for change the use of residential property to beauty salon
Recommending Officer:	Lucy Taylor

DECISION – APPROVE VARIATION OF CONDITION

**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.**

Julia Steadman

AUTHORISED OFFICER

Date: 31-May-2024

Officer Report.

Reference: 2024/90822

Location: The Beauty Lounge, 202, New Hey Road, Oakes, Huddersfield, HD3 4BU

Proposal: Variation condition 2 (hours of operation) on previous permission 2014/93693 for change of use of residential property to beauty salon

Site Description.

The Beauty Lounge is a two-storey terrace building located in Oakes, Huddersfield. The site is located approximately 300 metres west of New Hey Road / Acre Street Local Centre.

Description of Proposal.

Variation of condition 2 (hours of operation) on previous permission 2014/93693 for change of use of residential property to beauty salon.

It is proposed to vary condition 2 of application 2014/93693, which reads:

The proposed use shall not be open to customers outside the hours of 09:00 to 18:00 Monday to Friday and 09:00 to 14:00 Saturdays with no activities on Sundays or Bank Holidays.

Reason: *In the interests of traffic safety to ensure that the use can function satisfactorily given its location and the restricted parking provision available, to prevent loss amenity to the occupiers of nearby residential properties arising from noise at unsociable hours, and to accord with the aims of Policies T10 and EP4 of the Unitary Development Plan and the National Planning Policy Framework – conserving and enhancing the natural environment.*

It is now proposed that the opening times be extended to:

08:00 to 19:00 Monday to Friday

08:00 to 15:00 Saturday

With no activities on Sundays or Bank Holidays.

History of Negotiations/Amendments Received.

The application originally sought to vary the opening hours to:

08:00 to 18:00 Monday to Wednesday

08:00 to 19:00 Thursday

08:00 to 20:00 Friday

08:00 to 15:00 Saturday

However, following the first consultation response from KC Environmental Health, the applicant amended the proposal, seeking permission to vary the opening hours to:

08:00 to 19:00 Monday to Friday

08:00 to 15:00 Saturday
With no activities on Sundays or Bank Holidays.

As a result of these amendments, KC Environmental Health were formally re-consulted, and the application was re-advertised via second neighbour notification letters.

Relevant Planning History.

- 2014/93693 – Change of use of residential property to beauty salon.
Granted Conditional Full Permission.

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 which expired on: 15th May 2024.

In response to publicity, two objections were received, and nineteen supporting comments were received.

The objections raised the following, summarised, concerns, that are considered to be material to the determination of this variation of conditions application (the objections can be viewed in full on the website):

- Two significant remarks were made regarding the condition attached to application 2014/93693, to protect the amenity of the adjacent residential premises and traffic safety.
- The restrictions were designated to safeguard the adjacent properties.
- Will add more parking issues, more general noise, more raised voices over (and including) hairdryers, customers coming and going, banging up and down the stairs (adjacent to my home) and slamming doors.

The supporting comments can be viewed in full on the website, but predominantly include requests that the business be opened for longer hours and comments relating to low noise levels at the premises and highway safety / parking arrangements.

Consultation Responses.

KC Environmental Health – no objection to this variation and recommend a condition to secure these hours in the interests of protecting amenity.

KC Highways Development Management – Given that parking along this section of New Hey Road and Dean Street is permit-holder only, other than a short section of 30 minutes no return for 1 hour, Highways DM would on-

balance, find it difficult to justify a refusal of these proposals on highway safety grounds.

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 site is Unallocated in the Kirklees Local Plan.

Kirklees Local Plan (LP):

- LP1 – Presumption in favour of sustainable development
- LP2 – Place Shaping
- LP21 – Highway Safety
- LP22 – Parking
- LP24 – Design
- LP35 – Historic Environment
- LP51 – Protection and Improvement of Local Air Quality
- LP52 – Protection and Improvement of Environmental Quality

Supplementary Planning Guidance:

- 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 20th December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-Making
- Chapter 6 – Building a Strong, Competitive Economy
- Chapter 12 – Achieving Well-Designed Places
- Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Chapter 15 – Conserving and Enhancing the Natural Environment

Assessment.

The following matters are considered in the assessment below: -

- 1) Principle of Development
- 1) Impact on Visual Amenity
- 2) Impact on Residential Amenity
- 3) Impact on Highway Safety
- 4) Other Matters
- 5) Representations
- 6) Conclusion

1) Principle of 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.

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 will be explored.

1) Impact on Visual Amenity

As the proposal is for a variation of condition concerning opening hours to an existing business, 'The Beauty Lounge', there would be no additional impacts visually. Therefore, the proposal is not considered to pose an impact from a visual amenity perspective, appropriately according with LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

2) Impact on Residential Amenity

Sections B & C of the Kirklees Local Plan Policy LP24 which 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 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.

The proposal seeks to extend the hours of operation.

No. 202 New Hey Road fronts the adopted highway of New Hey Road (A640), directly neighbours a Londis shop to the west with a sandwich and snack shop to the east (No. 196a New Hey Road) and is located opposite an Aldi. As such, given the surrounding area, it is not considered that the extended opening hours would give rise to undue levels of noise, over or above the existing situation at the site.

Upon formal consultation with KC Environmental Health, it was concluded that they had no objection to this variation, with a condition to secure these hours, which have been negotiated during the course of the application, in the interests of protecting amenity.

Subject to the agreed conditions, securing the hours, the proposal is considered acceptable in accordance with Policy LP24b of the Kirklees Local Plan and Chapter 12 of the NPPF.

3) Impact on Highway Safety

Turning to highway safety and parking, policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking.

As part of this application, a formal consultation was undertaken with KC Highways Development Management, who made the following comments:

Whilst the lack of off-street parking facilities is a concern, given that parking along this section of New Hey Road and Dean Street is permit-holder only other than a short section of 30 minutes no return for 1 hour in front of Londis, Highways Development Management would on-balance find it difficult to justify a refusal of these proposals on Highway safety grounds.

Given the above, officers consider that the proposal accords with Policies LP21 and LP22 of the Kirklees Local Plan, the Highway Design Guide SPD and Chapter 9 of the NPPF.

4) Other Matters

Climate Change:

When determining planning applications, the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. Due to the limited nature of the variation of condition proposed, it is not considered that specific mitigation measures are required to fulfil those aims.

5) Representations

In response to publicity, two objections were received, and nineteen supporting comments were received.

The objections raised concerns regarding highway safety and amenity of neighbouring occupiers as a result of noise levels. These matters have been carefully considered and assessed within Sections 3 and 4 of this officer's report, where it was concluded that the variation sought is acceptable in terms of both residential amenity and highway safety.

6) Conclusion

The proposal is a Section 73 Variation of Condition application to vary Condition 2 (hours of customer use) to have extended hours. As set out above, in determining a S73, the Local Planning Authority must only consider the 'disputed' condition that is the subject of the application – it is not a complete re-consideration of the application. As such, it is a consideration of Condition 2 only.

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: Approval

Decision Authorisation – Delegated Powers

Application Number: 2024/90822

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, and to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

2. The premises shall not be open for business, including deliveries to or dispatches from the premises, outside the hours of:

- 08:00 to 19:00 Monday to Friday
- 08:00 to 15:00 Saturday

The premises shall be closed on Sundays and Bank Holidays.

Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: Kirklees Council has powers under Section 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 notice 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	-	-	20.03.24
Letter from Styletec dated 19 April	-	-	19.04.24
Location Plan (submitted under 2014/93693)	-	-	27.11.14
Block Plan (submitted under 2014/93693)	-	-	27.11.14
Supporting letter (submitted under 2014/93693)	-	-	14.01.15

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Following the first consultation response from KC Environmental Health, the applicant amended the proposal, seeking permission to vary the opening hours to:

08:00 to 19:00 Monday to Friday

08:00 to 15:00 Saturday

With no activities on Sundays or Bank Holidays.

These opening hours are considered acceptable and have been conditioned as set out on this decision notice.

Report Dated:

30.05.24