

**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:	2024/62/90849/E
Site Address:	217a, Huddersfield Road, Scout Hill, Dewsbury, WF13 3SF
Description:	Demolition of part of unauthorised extension and modification of remaining barbers shop
Recommending Officer:	Jennifer Booth

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.

Emma Thompson

AUTHORISED OFFICER

Date: 20-May-2024

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OFFICER REPORT

Site Description

217a Huddersfield Road is a single storey retail unit on Huddersfield Road which has recently undergone an extension. The design however is not as approved hence the current application.

There are terraced properties to either side and the yard areas and central path at the rear of the unit. The front faces onto a wooded area on the opposite side of the road.

Description of Proposal

The applicant is seeking permission for an extension to form a new shop.

The extension has a width of 6.6m and a depth of 5.9m with a pitched roof. There is a shop front in the road facing elevation with windows in the side elevation.

The walls have been constructed using reconstituted stone with concrete tiles for the roof covering.

Relevant Planning History

2006/94651 - alterations and new shop to commercial unit - approved

2017/93773 - single storey side extension - approved although not built in accordance

2022/91883 - extension to new shop - refused and dismissed at appeal

History of negotiations

Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. What is wrong with the plans, are they able to amend, have we advertised?

Representations

The application was advertised by neighbour letters, which expired on 17/05/2024

As a result of the above publicity, 1 representation has been received. The material planning matters raised are summarised as follows:

- The proposed unit is out of proportion with the surroundings,
- The design appears contrived,
- Overbearing and oppressive impact on neighbouring properties,
- Loss of privacy,
- Parking issues,
- Noise from antisocial hours,

Consultation Responses

K.C. Highways DM – informal discussions as part of previous application.
Advice not changed, no objections

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 on the Kirklees Local Plan Proposals Map

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 predates 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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 22** – Parking
- **LP 24** - Design

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, and 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 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Assessment

Principle of development:

The site is without notation on the Kirklees Local Plan (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 the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

The previous planning application was refused and dismissed as part of an appeal for an enforcement notice. The current proposals seek consent for a reduced scheme, which shall be assessed as follows.

Impact on visual amenity:

The surroundings of the application site are characterised by short lines of terraced dwellings on streets running perpendicular to Huddersfield Road (A644). These dwellings are constructed in a combination of stone, with contrasting red brick forming the rear elevations. On the opposite side of the road to the appeal site is a stone boundary wall, with dense tree planting behind.

The building on site, together with an adjoining commercial unit both front onto Huddersfield Road and are situated between the rear elevations of end of terrace dwellings, at 1 Thornville Walk and 2 Thornville Street. The principle of siting a small commercial unit between terraces in this way is not alien to the surrounding urban form and layout, with a similar form of development having taken place between the rear of the end terraced dwellings in the next group of streets to the southwest.

Although the extension to the original building – as built and on site at present, is of single storey height and contained beneath an apex roof, the glazing and framework of the shop frontage are offset to one side and not centrally positioned on the front elevation. This results in an asymmetrical design which appears contrived and does not sit comfortably with the adjoining unit. Furthermore, the frontage of the building is finished in

reconstituted stone, in a noticeably brighter shade when compared with the local stone predominating on the nearby terraced properties. Collectively these design attributes serve to draw attention to the building as somewhat conspicuous and incongruous in its surroundings and formed part of the reasons for refusal previously and were noted by the Inspector as part of the appeal.

The current proposal seeks to revert to the previously approved design and scale for the most part would be smaller in scale, with a reduced width, use of stone and brick with the fenestration for the shop front centrally positioned and a hipped roof form which reduces the overall impact. It is noted that the inspector expressed no concerns in terms of the previously approved scheme. Furthermore, there would be a smaller side element which would be set back from the front with a flat roof form to reduce the height and which is considered to result in a more comfortable visual relationship with the surroundings. The current proposals are therefore considered to be justifiable in terms of visual amenity.

Having taken the above into account, the proposals would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and the aims of chapter 12 of the National Planning Policy Framework.

Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

Impact on 1 Thornville Walk

The building is close to the rear elevation of 1 Thornville Walk and reduces the amenity space. It is noted that the retail unit and 1 Thornville Walk are both in the ownership of the applicant. However, Officers are required to consider not only the current residents/owners but the future owners/occupies as well. The previous approval considered the relationship between the house and the retail unit as acceptable with limited potential for overbearing, overshadowing or overlooking. The previous refusal, which had enlarged the building and further reduced the amenity space was deemed to have an unacceptable impact on the amenity space and outlook of the neighbouring property. That being said, the current proposals for the most part revert to the previously approved scale and design with a smaller side element which is set in from the back and the front and with a flat roof form, keeping the height down. This can be, on balance, considered to have no significant additional impact in terms of overbearing, overshadowing or overlooking.

Impact on 3 Thornville Walk

The Inspector, in consideration of the previous refusal, deemed that the rear elevation of No 3 was offset from the appeal building. In addition, it is

enclosed by fencing, relatively low in height, to the rear and opposite side boundaries. This means that the occupiers of No 3 would continue to enjoy a relatively open outlook from the rear of elevation window and rear yard area of their property in these directions. Accordingly, they did not find that the development harmed the living conditions of the occupiers of that property in this regard. As the current proposal is for a reduced development, Officers consider there would be no significant additional impacts on the neighbouring 3 Thornville Walk in terms of overbearing, overshadowing or overlooking.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135 (f) of the National Planning Policy Framework.

Impact on highway safety:

The site is adjacent to Huddersfield Road, a busy classified A road, with footpath immediately in front and lay-by suitable for three cars. The previous proposal was assessed by Highways Development Management officers, and they reported that any increase in traffic associated with the proposal would be very small and would have no noticeable impact on the operation of the local highway network or on highway safety. The site is served by public transport and pedestrian facilities in the immediate vicinity. There is also parking in the lay-by outside the premises and in adjacent streets, therefore with this in mind the proposal for the extension to form a new unit is acceptable to highways development management. It is noted that the original unit, 217 Huddersfield Road has changed to a use which may generate increased traffic. However, the current applicant can only consider the new unit being formed.

As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 & LP22 of the Kirklees Local Plan.

Other matters:

Use Class

The proposed development includes a use that falls within Class E of the Use Classes Order and whilst use as a barbers maybe considered appropriate in this location due to being a non-retail use. Should the development be considered acceptable, it is considered removing PD rights for conversion as any alternative use would limit negative impact on the vitality of own/local centres and further, to prevent alternate uses from impacting detrimentally on residential amenity as well as removing permitted rights to extend and alter the building under Part 7, Class A .

Coal Mining Legacy

The site is in an area where there is a high risk of coal mining features and hazards which would normally need to be considered in relation to determining the application and this was fully considered during the 2017 application. Policy LP53 of the KLP and the aims of the NPPF seek to ensure that available information on amongst other things, the stability of ground is considered during the course of assessing planning applications. The Coal Authority were consulted and commented with no objections within the previous application from 2017 and that the applicant has obtained appropriate and up to date coal mining information for the proposed development. As the building had been started prior to the expiration of the planning approval and completed, and the current application seeks consent to regularise the differences from the previous approval, it is not considered necessary to reconsult in term of LP53 and the previous comments are still relevant.

Carbon Budget

The proposal is a small scale development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

There are no other matters for consideration.

Representations:

1 representation has been received. The material planning matters raised are summarised as follows:

- The proposed unit is out of proportion with the surroundings and the design appears contrived – **Response:** *Visual amenity is a material consideration. The site already had a single unit and permission has been previously granted for an enlargement of that unit. The size of the building has for the most part been agreed previously. The smaller projecting element to the side is set back and limited in terms of its size within limited impact on the street scene,*
- Overbearing and oppressive impact on neighbouring properties – **Response:** *residential amenity is a material consideration. Whilst the building on site now, which is unauthorised has a close and overbearing relationship, the scheme under consideration reverts the scale back to the previously approved size for the most part with a smaller addition which is set back from the front and the rear and has a lower height through the use of a flat roof form thereby reducing the impact on the neighbouring properties,*
- Inadequate amenity space – **Response:** *it is noted that the building does take over part of the amenity space of the neighbouring 1 Thornville Walk. However, the overall scale was previously agreed. The additional element of the single storey w.c. is limited in scale and a modest amenity space would be retained for 1 Thornville Walk,*

- Loss of privacy – **Response:** *this is a material consideration relating to residential amenity. There is a single window in the side which would be obscurely glazed. Given the reduced depth from the previous application and the reduction in the number of openings to single window, there would be no loss or significant perceived loss of privacy,*
- Parking issues – **Response:** *this is a material consideration relating to highway safety. Discussions were held with Highways Officers during the previous application and no concerns were raised in terms of parking,*
- Noise from antisocial hours – **Response:** *this is a material consideration in terms of residential amenity. However, as a barber shop, there would be limited likelihood of the unit being open to the public outside of normal business hours.*

Negotiations:

None

Proposed conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Demolition of the existing within 6 months of the date of the permission to align with the requirements of the enforcement notice.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.

Matching materials to ensure that the extensions harmonise with the host property as using alternative materials would look out of place within the street scene.

Removal of permitted development rights to use the building for any other use within class E to ensure the vitality of the local centres and minimise the impact on adjacent residential properties.

Removal of permitted development rights for extensions and alterations under Part 7, Class A to minimise impact on residential amenity.

Conclusion:

This application for demolition of part of unauthorised extension and modification of remaining barbers shop at 217a Huddersfield Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposals are considered to be acceptable.

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

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

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2024/90849

Officer Recommendation: Approve

Conditions and Reasons

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Within 6 months of the date of this permission, demolition shall be carried out and completed in accordance with the areas shown and specified on plan reference 24101.1.

Reason: To avoid overdevelopment of the site and to ensure compliance with the enforcement notice in accordance with Policy LP24 of the Local Plan and the aims of the National Planning Policy Framework.

3. 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 the aims of the National Planning Policy Framework.

4. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the original building.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of chapter 12 of the National Planning Policy Framework.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no other use within Class E, other than the specified use as a barber shop shall be operated from this premises without the prior agreement of the Local planning Authority.

Reason: To ensure the continued vitality of the local centre and to minimise the impact on the occupants of neighbouring residential properties and to accord with Policy LP24 of the Kirklees Local Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no works within Part 7, Class A of schedule 2 to that order shall be carried out without the prior agreement of the Local planning Authority.

Reason: To minimise the impact on neighbouring residential properties and to accord with Policy LP24 of the Kirklees Local Plan.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior

to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours, Mondays to Fridays

08.00 and 13.00hours, Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Location plan	-	1035671	25/03/2024
Site plans	24101.2	1035670	25/03/2024
Existing & proposed plans	24101.1	1035672	25/03/2024
Planning statement	-	1035669	25/03/2024
Climate change statement	-	1035668	25/03/2024

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.

As the submitted plans were considered to be acceptable, no changes were sought.

Report Dated 17/05/2024

