# KIRKLEES METROPOLITAN COUNCIL
# DEVELOPMENT & MASTER PLANNING SERVICE

## DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England) Order 2015(as amended) - Schedule 2, Part 3, Class MA**

**DELEGATED DECISION FOR PRIOR APPROVAL FOR CHANGE OF USE FROM COMMERCIAL, BUSINESS AND SERVICE USES TO DWELLINGHOUSES**

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| **Reference no.** | **2024/CL/91290/E** |
| **Site Address** | **Aura Hairdressing, 5a, Railway Street, Cleckheaton, BD19 3HR** |
| **Description** | **Prior notification for change of use from commercial/business/service to two dwellings** |
| **Recommending Officer** | **Nicole Helliwell** |

**DECISION – DETAILS APPROVED**

**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.**

Kevin Walton

***AUTHORISED OFFICER***

**Date:03-Jul-2024**

**Officer Report**

**Reference No.** 2024/CLASS MA/91290/E

**Site Address:** Aura Hairdressing, 5a, Railway Street, Cleckheaton, BD19 3HR

**Proposal:** Prior notification for change of use from commercial/business/service to two dwellings.

**Site Description**

The application relates to 5a Railway Street, a commercial property located in Cleckheaton. The building is constructed in stone and a back to back property which fronts Railway Street. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity.

**Description of Proposal**

The proposal seeks to confirm that the change of use from a commercial building (Class E) to two dwellings (Class C3) is permitted development under Class MA of the General Permitted Development Order (2015) (as amended). The proposal would convert the existing building into two dwellings; a one bedroomed dwellinghouse across two storeys and a one bedroomed apartment across one storey.

**History of Negotiations**

No amendments or additional plans have been sought or received during the course of the application.

**Relevant Planning History**

- **2006/94137:** Erection of non-illuminated fascia and projecting signs. Planning application details | Kirklees Council – Advertisement Consent Granted
- **2003/92343:** Change of use from dress alteration shop to a recruitment agency. Planning application details | Kirklees Council – Conditional Full Permission
- **96/91570:** Alterations to second floor offices. Planning application details | Kirklees Council – Conditional Full Permission
- **86/02967:** Change of use from office to retail shop. Planning application details | Kirklees Council – Granted Conditionally

**Representations**

The application was advertised by neighbour notification letters, which expired on 5th July 2024. As a result of the above publicity, one representation has been received. The comments made have been summarised below:

- It provides housing in the town centre, which enables people to live close to services and public transport, and makes use of empty redundant space in buildings.
- It also helps with surveillance and combat of anti-social behaviour to have residents who overlook town centre streets when shops are closed.
- We would ask planning officers to ensure that both proposed dwellings meet minimum space regulations; are properly sound-proofed and insulated to a high standard, so that residents' amenity is protected and heating costs are sustainable.
- We note that Unit 2 (using the first floor above "Bridge 22" shop) has its access from Cross Crown St and hope this access meets regulatory requirements.
- We would ask what is proposed for the second storey (above unit 2) as there appears to be no access to this floor, and leaving it empty will counteract the positive features of the application i.e. making good use of empty town centre buildings.

**Procedural Matters**

The above described proposal constitutes development as defined within Section 55 of the Town and Country Planning Act 1990. The General Permitted Development Order 2015 Schedule 2 Part 3 Class MA (As inserted 2021) permits the following development:

*'MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.'*

The proposal (other than the alterations) is considered to be covered within this Class, and is thus authorised subject to the restrictions, conditions and prior notification procedure outlined in Paragraphs MA.1, MA.2 and MA.3.

**<u>Limitations for Part 3, Class MA.1 Development</u>**
**Development is not permitted:-**

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| (a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to | Sub-paragraph (a) has been omitted. |

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| the date of the application for prior approval | |
| (b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval; | **Pass:** The use of the building has been Class E at least over the last two year period. |
| (c) The cumulative floor space of the existing building changing use under Class MA exceeds 1500 square metres; | Sub-paragraph (c) has been omitted. |
| (d) if land covered by, or within the curtilage of, the building— (i)is or forms part of a site of special scientific interest; (ii)is or forms part of a listed building or land within its curtilage; (iii)is or forms part of a scheduled monument or land within its curtilage; (iv)is or forms part of a safety hazard area; or (v)is or forms part of a military explosives storage area; | **Pass:** The land covered by, or within the curtilage of, the building does not all within any of the categories labelled from i to v. |
| (e) if the building is within— (i)an area of outstanding natural beauty; (ii)an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(3); (iii)the Broads; (iv)a National Park; or (v)a World Heritage Site; | **Pass:** The building is not in any category in Paragraph (e). |
| (f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; | **Pass:** The site is not occupied under any agricultural tenancy. |
| (g) before 1 August 2022, if— (i)the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and (ii)the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a | **Pass:** The building is not within any land affected by an Article 4 Direction. |

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| direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3. | |

Paragraph MA.2 outlines a set of three conditions that the developer must adhere to. MA.2(2) states:

'(2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport impacts of the development, particularly to ensure safe site access;
(b) contamination risks in relation to the building;
(c) flooding risks in relation to the building;
(d) impacts of noise from commercial premises on the intended occupiers of the development;
(e) where— (i)the building is located in a conservation area, and (ii)the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;
(h) where the development involves the loss of services provided by—
(i)a registered nursery, or
(ii)a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost, and
(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building'

Paragraph MA.3 stipulates the need for the developer to comply with Paragraph MA.2(2)(i) which ensures developments meet the fire risk condition, the fire safety impacts on the intended occupants of the building.

**Assessment**

As per Part 3, Class MA, Paragraph MA.2(2), the local planning authority must assess the impact on several matters.

<u>Transport and Highway Impacts</u>

The proposal seeks prior notification for the change of use of an existing commercial building to two one bedroom apartments, which would intensify the domestic use on site. Whilst one off road parking would usually be required per dwelling of this type and size, with a further single visitor parking space, given its sustainable town centre location within close proximity to transport infrastructure, it is considered acceptable in this instance.

The applicant proposes bin storage areas adjacent to dwelling no. 1 which is claimed to be where the existing bins are kept. If available to be used the occupiers of the dwelling are able to use the existing ginnel to Railway Street to present their bins on the highway. Equally the bin storage area for apartment 2 is proposed where existing arrangements for bin storage are provided adjacent to no. 8 Crown Street. If available for use by the occupiers of the proposed apartment, the bins can be stored in an acceptable location. However, it is not known whether the owner/occupiers of the proposed dwellings would have legal access to these areas and as such it is considered reasonable to impose a condition to ensure these areas are made available while the properties are occupied.

Contamination Risks

The site is not located within an area of potentially contaminated land and therefore there are minimal concerns.

Flooding Risks

The site does not fall within a flood risk zone and there are no known flood risks associated with the site.

Noise Impacts

MA.2(2)(d) requires the LPA to assess impacts of noise from commercial premises on the intended occupiers of the development. The building is surrounded by residential and commercial properties including the Station Tavern. The building would be altered to residential use. However, the planning statement confirms that the applicant is intending on using a noise insulation and ventilation solution based on a noise survey prior to occupation to meet WHO guidance and the requirements of AD_E. Therefore, the proposal would not receive a significant level of noise disturbance from commercial premises which would be detrimental to occupiers. However, it is proposed that a condition be imposed to ensure any measures required to be installed are carried out to an acceptable standard.

Conservation Area

MA.2(2)(e) requires the LPA to consider the heritage impacts of the development 'where (i)the building is located in a conservation area, and (ii)the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area.' The site is not located within a conservation area.

Provision of Natural Light

MA.2(2)(f) requires the provision of adequate natural light to all habitable rooms of the dwellinghouse. The submitted plans confirm that the apartments would benefit from a number of windows to the north, east, and south facing elevations which would serve all habitable rooms. Therefore, it is considered that the property would receive adequate natural light and as such, would be acceptable with regard to MA.2(2)(f).

Commercial Impacts

MA.2(2)(g) is not considered applicable as the authority do not consider the surrounding area to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses. Furthermore, the proposal does not result in the loss of a nursery or health care centre and would therefore accord with MA.2(2)(h).

Fire Risk

MA.2(2)(i) states that where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building. The development is for two apartments which would not exceed the height of the building as outlined within article 9A of the General Management Procedure Order 2015. Therefore, the proposal would meet the fire risk condition.

Space Standards

Article 3(9A) of the Town and Country Planning (General Permitted Development) (England) Order (as amended) precludes any grant of planning permission where the gross floor area of any new dwelling does not exceed 37 sq. metres or does not meet nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

The proposal has been considered against the Government's Space Standards for dwellings which suggest that a two-storey, one bedroom dwelling for two persons should have an internal floor area of 58m2. The proposed floor plans

demonstrate that apartment 1 would have an internal floor space of 62.3m2, which would be acceptable. Furthermore, the Government's Space Standards suggest that a single storey, one bedroom dwelling for 1 persona should have an internal floor area of 39m2. The proposed floor plans demonstrate that apartment 2 would have an internal floor space of 45.3m2, which would be acceptable. For these reasons, it is considered that the proposal would adequately meet basic lifestyle needs and provide a high standard of amenity for future occupiers.

Representations

One representations was received following the statutory publicity. The supporting comments have been summarised below:

- It provides housing in the town centre, which enables people to live close to services and public transport, and makes use of empty redundant space in buildings.
- It also helps with surveillance and combat of anti-social behaviour to have residents who overlook town centre streets when shops are closed.

- We would ask planning officers to ensure that both proposed dwellings meet minimum space regulations; are properly sound-proofed and insulated to a high standard, so that residents' amenity is protected and heating costs are sustainable.

- We note that Unit 2 (using the first floor above "Bridge 22" shop) has its access from Cross Crown St and hope this access meets regulatory requirements.

- We would ask what is proposed for the second storey (above unit 2) as there appears to be no access to this floor, and leaving it empty will counteract the positive features of the application i.e. making good use of empty town centre buildings

**Conclusion**

The application has been submitted with sufficient information to allow the Local Authority to assess the above relevant impacts which are considered acceptable subject to conditions.

**Recommendation: Details Approved**

**Decision Authorisation – Delegated Powers**
**Application Number**: 2024/91290
**Officer Recommendation**: Approve Details

Prior approval granted subject to the following additional conditions:-

1. The proposed external refuse storage areas as stated in the Planning Statement reference 23260 - Transport and Highways Impacts of the Development shall be provided and made available for use by the occupiers of the proposed dwellinghouses before first occupation. The external refuse areas shall thereafter be retained and made available for use by the occupiers of the proposed dwellinghouses. In the event external refuse storage areas are not available for use, the dwellinghouses shall not be occupied until an alternative scheme for the storage of refuse facilities is submitted to and approved by the Local Planning Authority. Any alternative scheme for the storage of refuse facilities shall be retained thereafter.

   **Reason** To ensure adequate refuse storage areas are provided in the interest of highway and transport safety.

1. Before the development is brought into use the developer shall provide written evidence to the Local Planning Authority to demonstrate that the airborne sound insulation performance of the party floor/ ceiling of the development is of a minimum of 55 dB Dntw + Ctr. If it cannot be demonstrated that the aforementioned airborne sound insulation performance has been achieved, a scheme incorporating further measures to achieve the sound insulation performance shall be submitted for the written approval of the Local Planning Authority before occupation. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned sound insulation performance level has been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use. The approved insulation measures shall be thereafter retained.

   **Reason:** To protect the amenity of future occupiers of the residential accommodation from noise disturbance.

**Plans and specifications schedule: -**

| Plan Type | Reference | Revision | Date Received |
|---|---|---|---|
| Location Plan | (23260)1 | - | 07/05/2024 |

| Plan Type | Reference | Revision | Date Received |
|---|---|---|---|
| Scheme as Existing | (23260)2 | - | 07/05/2024 |
| Block Plan | (23260)3 | - | 07/05/2024 |
| Scheme as Proposed | (23260)4 | - | 07/05/2024 |
| Planning Statement | 23260 | - | 07/05/2024 |

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.

**Report Dated: 03/07/2024**