

**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:	2024/62/91921/W
Site Address:	69-71, Cowlersley Lane, Cowlersley, Huddersfield, HD4 5UE
Description:	Erection of canopy to south elevation
Recommending Officer:	Laura Yeadon

DECISION – Full Conditional 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 4-OCT-2024

Officer Report

[Website](#)

Site Description

69-71 is a retail unit at ground floor with a flat above located within an area without notation within the Kirklees Local Plan. The property is attached to No. 73 Cowlersey Lane which is noted as a residential property, within the same ownership as the premises. The building is constructed from stone with a blue slate roof. To the rear of the property is a single storey extension.

The surrounding area is comprised of mainly residential properties with limited commercial properties within the area with the property being located on the corner of Cowlersley Lane and Windsor Road.

Description of Proposal

The application is for the erection of a canopy to the southern elevation of the building. The southern elevation in this case is the rear elevation of the property.

The canopy would attach to the existing extension and would sit on top of the existing boundary wall. The canopy would span the remaining width of the rear elevation of the building, being set in from the side elevation facing Windsor Road by 1.4 metres. The eaves and roofline of the canopy would be a continuation of the roof and eaves line of the extension, being a total height of 2.4 metres above the existing wall. It is proposed that the canopy would be constructed from clear plastic on a timber frame.

The canopy would provide a covered area for parking, loading and unloading.

History of negotiations/amendments received

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

Relevant Planning History

69-71 Cowlersley Lane

2014/91250 Installation of ATM and associated works
Conditional Full Permission

2017/91279 Notification of prior approval for change of use of part of shop (Class A1) to restaurants and café (Class A3)
Deemed withdrawn

2020/94070 Use of premise for self service laundrette facility and associated works

Refused

1996/90557 Installation of new shop front and shutters
Conditional Full Permission

73 Cowlersley Lane

2008/90077 Change of use from dwelling (C3) to hot food takeaway (A5)
with accommodation over
Withdrawn

Representations

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

Final publicity date expired 6th September 2024 – no representations received

Parish/ Town Council – not applicable

Consultation Responses

None required

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 without notation on the Kirklees Local Plan.

Kirklees Local Plan:

- **LP 1**– Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highways safety
- **LP 22** - Parking
- **LP 24** – Design
- **LP 30** - Biodiversity and geodiversity
- **LP 51** – Protection and Improvement of Local Air Quality

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 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding & coastal change.
- Chapter 15 – Conserving and enhancing the natural environment

Legislation

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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:

The site is without notation on the Kirklees Local Plan. Policy LP1 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 National Planning Policy Framework. LP1 goes on further to stating that:

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

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

The application seeks permission to install a canopy to the southern elevation which is to the rear of the property to provide a covered area for parking, loading and unloading for the associated commercial unit.

The above listed policies and guidance are taken into account within sections below of this report.

2 – Impact on visual amenity:

Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design.

The proposed canopy would be located on the rear elevation of the property and would be attached to the single storey rear extension on the rear of the property. Due to its location, the canopy would not be seen from public vantage points on Cowlersley Lane and would only be visible from limited points on Windsor Road. The canopy would be set above the existing boundary wall and would follow the roof form of the existing extension both in terms of eaves height and ridge height. Whilst the development to the rear of the property would be brought closer to the public highway, as the canopy would be clear plastic, it would have a lightweight appearance and would not be viewed as a solid form due to the proposed materials and clear roof. The canopy would be set behind the existing solid steel gates which provides existing vehicular access to the rear of the building.

Therefore, in terms of visual amenity, it is considered that the proposed canopy, due to its lightweight appearance and finishing materials, would be acceptable from a visual amenity perspective. The proposal is therefore considered to comply with Policies LP1, LP2 and LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Key Design Principles 3, 4, 5 and 6 of the Council's adopted House Extensions & Alterations SPD seek to ensure development does not have a detrimental impact upon privacy of neighbouring occupiers, cause unacceptable levels of overshadowing or be unacceptably oppressive / overbearing.

No. 2 Windsor Road is located to the southern side of the building, sharing a boundary with the boundary wall where the canopy would sit on. There are ground floor and first floor openings within the side elevation which would face the canopy, however, the ridge of the canopy would sit just below the bottom sills of the first floor windows. Due to the canopy being clear, it is not considered that these openings would be significantly impacted on as a result of the presence of the canopy. In terms of the ground floor openings (window and door), these openings are already affected to some degree by the presence of the boundary wall, however it is not considered that the proposed

clear canopy would cause significant additional harm to these openings in terms of overshadowing.

With regards to overlooking, the space is open to the rear of the property and is accessed off steel gates off Windsor Road. The use of this area of the property will remain as existing with the canopy providing a shelter for loading and unloading. It is not anticipated that the presence of the clear canopy would increase overlooking from this area of the property to neighbouring dwellings as the intended purpose would not introduce any retail or residential accommodation to the building.

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

4 – Impact on highway safety:

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

In this case the vehicular access to the rear of the property would remain unchanged. The canopy would not reduce the width of the parking area, nor would the use of the area change. Therefore, it is not considered that the proposal would be detrimental to highway safety or parking for the building.

5 – Other matters:

Climate Change - On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development.

Biodiversity – Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by

law, the habitat and animals of certain species including newts, bats and badgers.

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

The application site is within a 'Bat Alert' layer on the Council's GIS system. Whilst formal comments have not been requested from an Ecology & Biodiversity Officer it is considered that a Bat Survey was not be required in this instance. This is as the proposed canopy would not interfere with the eaves at the two storey level of the property. Whilst the canopy would attach to the existing extension, as this part of the building is single storey in height, it is unlikely to attract roosting bats.

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

Coal legacy – The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area". However, in the event that planning permission is approved, it is recommended that an informative note be appended to the decision notice which constitutes the deemed consultation response. The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 186 and 191 of the National Planning Policy Framework.

6 – Representations:

None

7 – Conclusion:

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2024/91921

Officer Recommendation: Approve

Conditions:

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

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

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

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP30 and LP51 of the Kirklees Local Plan and to accord with Policies within Chapters 2, 4, 12, 14 and 15 of the National Planning Policy Framework.

NOTE: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership.

NOTE: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 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.

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

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

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	PP-13214217v1		9 th July 2024
Location plan, block plan, elevations and floor plan	S01-01 – June 2024		9 th July 2024
Proposed block plan, elevations and floor plan	S01-02 A – June 2024		9 th July 2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

The Case Officer did not undertake any negotiations with the applicant due to the application being acceptable in its submitted format.

Report Dated: 2nd October 2024

Coal – low

