

**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:	2024/62/91954/E
Site Address:	13, Westgate, Cleckheaton, BD19 5ET
Description:	Change of use of basement into self contained flat and erection of dormer windows at second floor
Recommending Officer:	Edward Cheseldine

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.

Emma Thompson

AUTHORISED OFFICER

Date: 16-October-24

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Officer Report

2024/91954 - 13, Westgate, Cleckheaton, BD19 5ET

Site Description

13 Westgate is a two-storey building that rests on corner plot between Westgate and Old Robin. The ground floor and basement area are part of a retail outlet. The first-floor contains a flat dwelling. The building has been constructed with stone exterior walls, which have been painted an off-white colour. The ground floor unit has a shop front façade that faces towards Westgate. The property has a traditional styling with simplistic fenestration and sash type openings. It has a pitched roof. There is no outdoor space or off-street car parking spaces associated with the property.

The site rests within the Cleckheaton Town Centre boundary, on the KLP Policies Map.

Proposal Description

The applicant is seeking planning permission for a change of use of basement into self-contained flat and erection of dormer windows at second floor with new window openings.

Two dormers will be erected on the west facing roof plane. The dormer to the left of the elevation will be ~4.65m(w) with a ridgeline of ~4.50m. The dormer to the right will be ~4.30m(w) with a ridgeline of ~4.50m. They will have triple pain glass, with grey zinc cladding on the side.

The change of use seeks the conversion of part of the ground-floor and the basement level to a residential dwelling. The basement dwelling will contain a bedroom, w/c area and lounge/kitchen.

Consultation Response

KC Environmental Health – No objection, subject to conditions relating to sound mitigation measures.

Public Representations

Neighbourhood notification letters were distributed to advertise the application, which expired on the 01 October 2024. As a result of the publicity, there were no representations.

Relevant Planning History

None relevant.

Amendments/Negotiations

The new basement dwelling is not considered to be viable given the substandard window openings and resulting level of outlook and light. As the proposal for the change of use and the formation of the new openings cannot be separated, it was not considered that amendments would reach a satisfactory conclusion.

Policy & Legislation

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 application site is allocated within Cleckheaton Town Centre on the Kirklees Local Plan map.

Kirklees Local Plan:

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 7 – Efficient and effective use of land
- LP 11 – Housing Mix and Affordable Housing
- LP 13 – Town centre uses
- LP 15 – Residential use in town centres
- LP 20 – Sustainable travel
- LP 24 – Design
- LP 25 – Advertisements and shop fronts
- LP 52 – Protection and improvement of environmental quality

Kirklees Council adopted supplementary planning guidance on house extensions (House Extensions and Alterations Supplementary Planning Document) (SPD) on 29th June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this House Extensions and Alterations Supplementary Planning Document will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

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 5 – Delivering a Sufficient Supply of Homes
- Chapter 7- Sustainable Transport
- Chapter 8 – Promoting Healthy and Safe Communities
- Chapter 12 – Achieving Well-Designed Places & Beautiful Places

Other Material Considerations:

- Highways Design Guide SPD (2019)
- Waste Management Design Guide for New Development (Version 5, October 2020)
- Kirklees Housebuilders Design Guide SPD (2021)
- Kirklees Extensions & Alterations Supplementary Planning Document (2021)

Assessment

The following matters are considered in the assessment below: -

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Environment matters
- 7) Conclusion

Principle of Development

Presumption in favour of sustainable development

NPPF Paragraph 11 and KLP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. 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 assessed.

Land Allocation

The site is allocated as within Cleckheaton Town Centre on the KLP Policies Map. Policy LP2 states that:

“All development proposals should seek to 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, as set out in the four sub-area statement boxes below...”

Change of use from retail outlet to residential dwelling

‘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 however, this has to be balanced against any adverse impacts of granting the proposal.

The proposal is for the conversion of part of a retail outlet to form one dwelling. Housing applications should consider the context of the presumption in favour of sustainable development.

The site falls within Cleckheaton Town Centre, whereby policy LP13 of the Kirklees Local Plan is relevant. The policy encourages development that supports a strong, diverse economy that serves the local community by encouraging the vitality and viability of existing town centres. In order to contribute positively to the mixed-use aims of LP13, town centres should be ‘inclusive places for all users and attractive places for pedestrians, cyclists and public transportation users. In order, to conserve and enhance this, the local character, heritage and the public realm should be a focus of future development.’

Paragraph 90 of the NPPF supports a mixed-use town centre that includes housing to grow and strengthen town centres. Residential development in town centres is supported in the Kirklees Local Plan under LP15 so long as it does not conflict with the purposes of a Town Centre. The development will maintain the existing shop front, which is within a Town Centre. The street will therefore retain its retail qualities by maintaining a retail use whilst changing the use of sections of the building that do not form the active street frontage.

The site is located within a pedestrian-accessible network close to the main shopping and retail area of Cleckheaton. Cleckheaton bus station is within walking distance of the application site. The area of the site is close to a high amount of retail space. A mixed residential and commercial use in the area would benefit the economic strengths of the area, whilst supporting the footfall of local businesses. The retail unit whilst being reduced in size would remain open providing an opportunity for a retail unit in the town centre. Given this, there is sufficient justification for supporting the change of use of part of the site.

Summary

It is considered that the change of use is supported by Policy LP 13 & LP 15 of the Local Plan whilst the provision of an additional residential unit would be in compliance with Policy LP11 of the Kirklees Local Plan and paragraph 11 of the NPPF. Further to this, LP7 'encourages the reuse or adaptation of vacant or underused properties'. As such it is considered that the principle of conversion to residential apartments is acceptable subject to matters regarding character, amenity, design and access.

Impact on Visual Amenity

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.127 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district.

With regard to extensions, it states under part c, that proposals should promote good design by ensuring 'extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details'.

- Key Design Principle 1 of the House Extensions & Alterations Supplementary Planning Document states '*extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene.*'
- Key Design Principle 2 of the House Extensions & Alterations Supplementary Planning Document states '*extensions should not*

dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and details.'

The building hosts a prominent position on a main road entering Cleckheaton. Westgate is a busy single-carriage A road. The roof plane is highly visible to traffic and user of the footpath when travelling eastbound on Westgate. In addition, the prevailing street scene represents a traditional setting, formed through the sandstone buildings that line Westgate, as well as the historic viaduct. The dormers fail to assimilate with the traditional setting of the streetscene. Given their scale and flat roof form, they would form a prominent, modern addition to the area that would appear stark within the prevailing landscape.

The dormers will have a ridgeline of ~4.50m and a width of ~4.30m/~4.65m. The proposed dormers are considerably large in scale, a ~4.50m ridgeline projection on the front elevation would appear as a large addition to the present roof form. The zinc cladding would A significant proportion of the original roof would be covered by the dormers which neither appear modest, or in keeping with the traditional design of the building.

The large structures would therefore have a top-heavy appearance that would be overly dominate to the original building and street scene, being contrary to the thrust of the Kirklees House Extensions & Alterations Supplementary Planning Document paragraph 5.24.

In terms of the external aspects associated with the change of use application, the shop frontage and other external aspect of the building will be retained. A new window will be installed on the gable-end, at a first-floor height. It is squarer than the existing windows. The windows of the adjoining property do not mirror the fenestration placement of the host dwelling. The window is accompanied by a stone cill and lintel. For the purposes of visual amenity, the new window is acceptable.

A section of glazing will be installed on the basement property. For the purposes of visual amenity, the window placement for the basement dwelling is acceptable.

Impact on Residential Amenity

Policy LP24 b) of the Kirklees Local Plan states good design should be at the core of all proposals, including of which is that design 'provide a high standard of amenity for future and neighbouring occupiers.

Amenity of the Proposed Occupiers

Relevant to the formation of a new dwelling, is that habitable rooms are served with sufficient light and outlooks. The new dwelling would be formed at a basement level. There is a gentle gradient on Old Robin that slopes gently from north to south, revealing a section of the basement level. Following an Officer site visit, it has been concluded that the basement level openings

would be wholly unacceptable to provide amenity for future occupiers of the basement flat. The elevation drawings indicate ~0.18m of the window to the left of the elevation would be present, and ~0.67m of the window to the right would be present. These windows are the sole outlooks for the dwelling. For the purposes of modern habitable standards, the openings would not provide sufficient natural light or an outlook that is satisfactory, therefore the new dwelling fails to accord with Policy LP24 b) of the Kirklees Local Plan in relation to future occupants.

Principle 16 of the 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 (NDSS), these are not currently adopted in the Kirklees Local Plan.”

Guidance as to the suitable standards for internal space are set out in the House Design Guide SPD, which states in paragraph 9.1, ‘The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers’.

The floor plans indicate the dwelling will have one-bedroom, with living accommodation and a shower room. Single bedroom accommodation for adults should include two bed spaces for occupancy. NDSS recommend a one-bedroom dwelling, over 1 storey should have internal living space of 50m². The internal floorspace of the dwelling would be 45m², with a bedroom size of 16.20m². Whilst the floor space of the bedroom does meet the requirements of NDSS, the internal living space of the flat is substandard to meet the criteria for two bedspaces. Once furniture, a kitchen and possessions are added to the flat, the living space will not be a suitable size to host two adults.

The proposed development therefore fails to accord with Principle 16 of the Kirklees Housebuilders Design Guide SPD in terms of internal floor space which has adopted the Nationally Described Space Standards, Local Plan Policy LP24(b) and Chapter 12 of the National Planning Policy Framework

Principle 17 of the Kirklees Housebuilders Design Guide states all new houses should have adequate outdoor space that is functional and proportionate to the dwellings. There is no associated functional outdoor space provided to the future residents of the dwellings.

The development is suitable as a sustainable development as it is located in a central location. Cleckheaton Recreation ground is ~430m to the east, which leads on to open countryside. Cleckheaton bus station is ~200m from the dwelling. There are accessible transport links that can be sought within the town centre. Given the proximity to open green space and local transport links, the requirements of Principle 17 are met.

As well as the change of use, the erection of the outlooks will be formed. Given the dormers are placed on the roof of the building and there are no other extensions, the proposed built form would not cause a loss of light, outlook or an overbearing impact to neighbours.

In terms of the new openings, the separation distance between neighbouring buildings is set. The nearest residential dwelling with a relationship to the new openings is No. 22A Westgate, which is a flat on the first-floor of the building. It has a separation distance of ~14.20m and is set at an acute angle to the host dwelling. Given there are existing outlooks on the first-floor of the dwelling, the separation distance and the angle of outlook, it is not considered the new windows will impact the privacy of neighbouring occupants to a detrimental level.

There are other buildings in close proximity to the application buildings, including 15 Westgate. These properties are commercial buildings. Given the type of occupancy of these buildings, there will be no impact to privacy from the new outlooks.

Impact on Highway Safety

Paragraph 111 of the NPPF states that: "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."

The application form indicates there are two car parking spaces associated with the building; however the block plans do not indicate any off-street spaces. Given the location of the property, the spaces are potentially on Old Robin, on an adopted highway and therefore cannot be considered to be private spaces.

The proposal would introduce a new one-bedroom dwelling. The dwelling is in a town centre location, it is an existing site. Whilst it is recognised there are parking issues in the town centre, a sole site would not be to the detriment of an existing shortfall in town centre spaces. The dwelling is within a periphery location, there are streets with unrestricted parking in the close vicinity, therefore the new dwelling is acceptable in terms of highway safety.

To the existing dwelling, 1 new bedroom would be introduced to the dwelling making it a 4-bed dwelling. Whilst the number of parking spaces is not representative of the number of bedrooms, the dwelling is within a town centre location and there is free and sufficient parking in the area.

No information has been submitted in terms of collection of refuse location, frequency, or type of bin storage. As such if the application was approved, it would be conditioned that such information was submitted in writing and approved by the planning authority.

Environmental Matters

Sound

The change of use would introduce a new dwelling below a retail shop. KC Environmental Health were consulted in relation to sound levels for future occupiers of the new dwelling. They recommended a condition that related to party wall sound measures. Given the nature of the application, if it was recommended for approval, a condition relating to sound insulation performance would be required.

Ecology

A Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission for minor sites granted pursuant to an application submitted after 02 April 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

The applicant has stated the application falls under the 'De Minimus' exemption category within the application forms. A change of use would not result in a loss of wildlife habitat. Therefore, the officer agrees, the application is exempt from a BNG uplift.

Conclusion

The application for a change of use and external alterations at 13 Westgate 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 harm in terms of visual amenity, residential amenity, the proposed change of use should be refused.

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 not constitute sustainable development and is therefore recommended for refusal.

Decision Authorisation - Delegated Powers

Application Number: - 2024/91954

Officer Recommendation: Refusal

Reasons for Refusal

1. The proposed dormer, due to scale and roof shape would dominate the roof space appearing incongruous and detrimental to the traditional character and appearance of the host dwelling. To allow the dormers in a prominent, town centre location, would compete with the immediate building group being detrimental to the character of the prevailing streetscene, being contrary to the aims of Policy LP24 (a & c), as well as Principle 1 & 2 of the Kirklees House Extensions & Alterations SPD and the advice within Chapter 12 of the National Planning Policy Framework.
2. The proposed basement floor dwelling would fail to provide a high standard of amenity for future occupiers, it would not provide sufficient natural light or an outlook that is satisfactory for a good standard of habitable living. The internal floorspace would result in an unsuitable standard for accommodation for residents, which does not accord with Principle 16 of the Housebuilders Design Guide SPD, Policy LP24(b) of the Kirklees Local Plan, Nationally Described Space Standards and Chapter 12 of the NPPF.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan & grouped floor plans	1	-	11 July 2024
Grouped plans and elevations	2	-	11 July 2024
Climate change statement	-	-	11 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 Planning Authority has, 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 new basement dwelling is not considered to be viable given the substandard window openings. As the proposal for the change of use and the formation of the new openings cannot be separated, it was not considered that amendments would reach a satisfactory conclusion.

