
Report of the Head of Planning and Development**STRATEGIC PLANNING COMMITTEE****Date: 31-Jul-2025****Subject: Planning Application 2024/92105 Alterations to convert former offices to 21 apartments (Listed Building within a Conservation Area) Wesley House, Huddersfield Road, Birstall, Batley, WF17 9AZ****APPLICANT**Rajan Gupta, Medipharm
Bradford Ltd.**DATE VALID**

25-Jul-2024

TARGET DATE

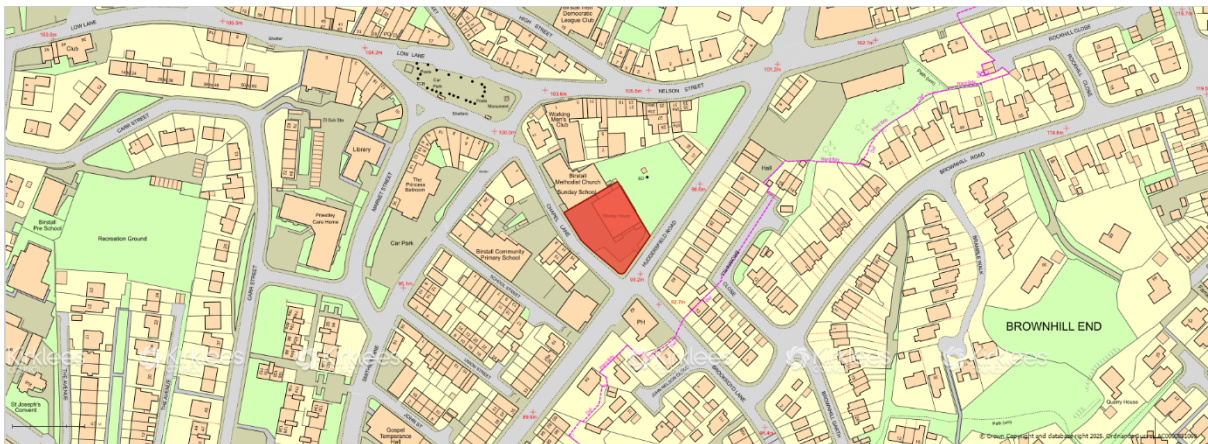
24-Oct-2024

EXTENSION EXPIRY DATE

15-Oct-2024

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development, subject to:

1. Await the receipt of a bat survey, with regards to the roof and potential habitat value, then re-consult K.C. Ecology. Thereafter proceed as follows:

a) in the scenario identifies no bats, or bats / roosts are found and K.C. Ecology conclude suitable conditions may be imposed to mitigate anticipated impacts, determinate the application as set out in 2. below.

b) in the scenario bats are found, and are inhabiting / roosting in a manner that would preclude the development so as to form a strong reason for refusal, determine the application on that basis.

2. Complete the list of conditions, including those contained within this report

1.0 INTRODUCTION

1.1 This application seeks full planning permission for the alteration to convert the building, formally offices, to 21 apartments. The building is listed and within a Conservation Area.

1.2 The application is presented to the Strategic Planning Committee due to the recommendation including a non-policy compliant S106 package following a viability review exercise. This is in accordance with the council's Delegation Agreement.

2.0 SITE AND SURROUNDINGS

2.1 The application relates to a 0.13ha site serving Wesley House and the associated car parking and access. The building is a large building adjoined to the Methodist Church located to the northwest. The building is set in a prominent position at the corner of Chapel Lane and Huddersfield Road.

2.2 The building is stone construction with some areas of paint/render. The internal accommodation is set over four floors facilitated by mezzanine levels, with a central void, at the first and third floors. Externally the building is set within an existing car parking area which serves 23 parking spaces and is accessible off Chapel Lane. There is a grassed area to the east which is not included within the application site. There is a protected tree (TPO) adjacent to the site access and there is soft landscaping along the southern boundary.

- 2.3 The building was last used in circa 2018 as commercial offices. Within the submitted Design Statement the applicant has stated *“the building has been marketed of a number of years with little or no interest (...), and therefore we must presume that there is little requirement for Offices of this type within the locality.”*
- 2.4 The building is Grade II Listed and the adjacent Methodist Church and grassed area fall under the curtilage listing. The site also falls within Birstall Conservation Area and is ~22m south of the boundary of Birstall District Centre.
- 2.5 Planning permission has previously been approved for the conversion of the building to residential (21 units), under application ref. 2018/90207, with a similar (although not the exact same) layout as that now proposed. The previous permission was never implemented.

3.0 PROPOSAL

- 3.1 The applicant is seeking permission for alterations to convert the former offices to 21 apartments (C3 use).
- 3.2 The scheme proposes 21 one-bedroom apartments. Three of the apartments, located within the roof space, would be single storey, whilst all other apartments would be duplexes (split over two levels), with a kitchen/dining area on the lower floor and a bedroom/living area above.
- 3.3 Below is a breakdown of the number of bedrooms, and Gross Internal Area (GIA) of each proposed unit:

Unit	Bedrooms	Gross Internal Floor area (m2)
1	1 + study	72.3
2	1	62.9
3	1	57
4	1	53.8
5	1	57.7
6	1	58.4
7	1	54.6
8	1	60.6
9	1	52.9
10	1	75.6
11	1	70.7
12	1	57.4
13	1	53.8
14	1	59.8
15	1	67
16	1	59.8
17	1	61.6
18	1 + study	61.9
19	1	52.4
20	1	59.7
21	1	52.5

- 3.4 No affordable housing or on-site Public Open Space is proposed, with a viability exercise having taken place.

- 3.5 Internally the proposal would include the infilling of the void spaces at the first and third floor, to complete the storey's floor plate, and the installation of a lift and stairway. The existing partition walls would be removed and new ones erected, to form the proposed units.
- 3.6 Externally the alterations would be minimal and would be limited to additional rooflights and roof vents.
- 3.7 The car parking and access would remain as existing, providing a total of 23 car parking spaces. Bin storage is proposed to the northern part of the site, adjacent to the Methodist Church, utilising the existing bin store.

4.0 RELEVANT PLANNING HISTORY

4.1 Application Site

89/06486: Conversion of chapel into offices (Listed Building) – Approved

89/06487: L.B.C. for internal alterations to form four new floors/new external windows and doors/demolition of manse and provision of car park – Approved

2017/20368 (Pre-application enquiry): Advised to reduce the scale of the proposals and to ensure adequate parking, also that dormers to the roof would not be supported.

2018/90206 – Listed Building Consent for conversion – Approved

2018/90207: Condition full permission subject to S106 for affordable housing contributions.

2024/92106 – aligned Listed Building Consent – Pending determination.

4.2 Surrounding Area

Birstall Methodist Church

2016/90803 Listed Building Consent for erection of single storey rear extension (within a Conservation Area). Granted.

2016/90802 Erection of single storey rear extension (Listed Building within a Conservation Area). Conditional full permission.

2016/90693 Work to tree(s) within a conservation area. Granted

4.3 Enforcement History

Non relevant to the proposed development or application site.

5. HISTORY OF NEGOTIATIONS

- 5.1 Officers had concerns regarding the ground and second floor living accommodation which is only served by small openings. The applicant discussed the idea of adding additional openings however, in the interest of preserving the listing building and not causing harm to visual amenity, officers outlined they would not support additional openings. Instead, a revised internal layout was provided which proposed the kitchen area to the lower levels and all other living accommodation to the upper levels which have larger openings.

- 5.2 The applicant was asked to demonstrate why the affordable housing provision could not be met. Whilst mentioning vacant building credits, the applicant did not provide any supporting evidence of this. Instead, they provided a viability assessment which outlined that affordable housing was not viable for the scheme. The initial viability assessment was sent back to the agent due to inaccuracies. The second was independently assessed on behalf of the council. A rebuttal statement was also submitted following the consultant's initial assessment and a final document was issued by the independent consultants.
- 5.3 Amended plans were not readvertised given the limited scope of the amendments and as there would be no additional harm to residential amenity as a result of the proposal.

6.0 PLANNING POLICY

- 6.1 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).

Kirklees Local Plan (2019) and Supplementary Planning Guidance / Documents

- 6.2 The site unallocated within the Kirklees Local Plan however it is located within Birstall Conservation Area and is Grade II Listed.
- 6.3 Relevant Local Plan policies are:
- **LP1** – Achieving sustainable development
 - **LP2** – Place shaping
 - **LP3** – Location of new development
 - **LP7** – Efficient and Effective Use of Land and Building
 - **LP11** – Housing Mix and Affordable Housing
 - **LP21** – Highways and access
 - **LP22** – Parking
 - **LP24** – Design
 - **LP30** – Biodiversity and Geodiversity
 - **LP33** – Trees
 - **LP35** – Historic Environment
 - **LP63** – New Open Space

- 6.4 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council:

Supplementary Planning Documents

- Affordable Housing and Housing Mix SPD (2023)
- Highway Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

Guidance documents

- Kirklees Interim Housing Position Statement to Boost Supply February 2024
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets Principles for the West Yorkshire Transport Fund

National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), the Planning Practice Guidance Suite (PPGS) together with Circulars, Ministerial Statements and associated technical guidance.

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

- **Chapter 2** – Achieving sustainable development
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making efficient use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 16** – Preserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE

7.1 The application was advertised by neighbour notification letters, site notice, in the press and on the council website. In total, over the course of the application 5 representations have been received, 3 in objections, 1 in support and 1 general comment. The following is a summary of the comments received:

General Comments

- o Support idea of it being converted into flats
- o Property does not own driveway where the bin storage is proposed – this belongs to the adjacent property
- o Car parking for other residents on the street was historically agreed under the previous change of use impacting the current residents whose residential car spaces are often used incorrectly in school term time

Objections

- o Parking and traffic is already an issue on Chapel Lane
- o Waste disposal using the existing sewers could be a problem
- o Land adjacent to adjacent building doesn't belong to the applicant

Support

- Support the restoration of a disused building
- Chapel is an important part of Birstall's history
- If these apartments are for rent or purchase, they will hopefully attract people into the area who may work in surrounding towns and for those commuting via motorway network but only if it is not all social housing.
- Access off Huddersfield Road is already congested
- The hatched markings allow traffic out of Brookroyd but if going towards Leeds they then turn right and views of oncoming traffic is often restricted
- Public transport improvements should also be considered as commuting into Leeds and Huddersfield at the moment is difficult as often buses don't turn up
- There is also a Primary school opposite the building, extra security measures to ensure the safety for schoolchildren need putting in place – Chapel Lane is a one-way street and vehicles exiting/entering the proposed car park may cause a hazard at school times.
- there are houses directly opposite the Chapel on Huddersfield Road, their living/bedroom windows will be directly overlooked from the apartments

7.2 Ward members were notified of the application during the publicity period. No comments were received.

8.0 CONSULTATION RESPONSES

KC Highways Development Management – No objection subject to condition.

KC Environmental Health – No objections subject to condition.

KC Conservation and Design - No objections subject to condition.

KC Waste – Comments provided and considered within the report.

KC Trees – No objection.

KC Strategic Housing – Comments provided and considered within the report.

KC Landscaping – No comments.

KC Designing Out Crime Officer – No comments.

KC Landscaping – No comments.

KC Ecology – No comments.

9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity and historic character
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 48 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.
- 10.2 NPPF paragraph 12 and Policy LP1 of the Kirklees Local Plan outlines 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.
- 10.3 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 explored.

The five-year housing land supply and the tilted balance

- 10.4 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.
- 10.5 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%).
- 10.6 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.*

- 10.7 Footnote 8 of the NPPF clarifies that for applications involving the provision of housing, the presumption applies to situations whereby the local planning authority cannot demonstrate a five-year supply of deliverable housing sites; or where the Housing Delivery Test has fallen below the 75% pass threshold.
- 10.8 Notwithstanding the above, Footnote 7 lists exemptions for when the tilted balance applies. This includes, amongst others, proposals which impact upon designated heritage assets. While this is acknowledged, for the reasons given in paragraphs 10.30–10.42, in this case the building's listed status does not result in a '*clear reason for refusing the development proposed*'
- 10.9 In light of this, and the Council's inability to demonstrate a five-year supply of housing land, the tilted balance is considered to be active for this proposal. Still, this must be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer's assessment below.

Land use

- 10.10 Wesley House currently serves an office (although not currently in use) which is an employment generating use. The site is unallocated within the Kirklees Local Plan and is not located within a main town centre. Within the submitted Design Statement the applicant has stated "the building has been marketed of a number of years with little or no interest (...), and therefore we must presume that there is little requirement for Offices of this type within the locality."
- 10.11 The applicant has submitted a letter from Michael Steel & Co. Property Consultants which outlines that in 2018 they were instructed to seek new tenants for the building, whilst some enquiries were received, there was no further interest in the building. The marketing was ongoing until 2022 when there was one potential buyer for office and mixed use however this did not progress due to the high costs of splitting the premises. They were then instructed to market the estate in 2024. Some enquiries were received however these were primarily with the view to convert the building, rather than retain it as office use.
- 10.12 It is also noted that the principle of converting the building to residential use was established under application 2018/90207 and the building appears to have been vacant since the submission of the 2018 application.
- 10.13 In the absence of a policy restriction, and given the building has been underutilised for an extended period, officers hold no concerns over the loss of the building's current office use.

Residential quantum and mixture

- 10.14 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land, including policies LP7 and LP11.
- 10.15 LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. As an apartment development, the proposal is well in excess of this number (at 162dph).

10.16 Policy LP11 of the Kirklees Local Plan states:

“All proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing.”

This is expanded upon and detailed within the council's Affordable Housing and Housing Mix SPD (March 2023).

10.17 This development proposes 100% one-bedroom flats, although two of which have studies which could be considered an additional bedroom. Nevertheless, the council's Affordable Housing and Housing Mix SPD treats 1 and 2 bed units as a single category.

10.18 As both a conversion, where pre-existing space can be restrictive, and as an apartment development, the provision of 100% one-bed units is considered appropriate as it is acknowledged three and four+ bed flats are rarely desirable and cannot be reasonably sought.

10.19 Consideration of affordable housing, or in this case the lack of, is undertaken in paragraphs 10.68–10.75.

10.20 The proposal considered to represent an effective and efficient use of the allocated site, in accordance with relevant planning policy. The proposal would aid in the delivery of housing to meet the council's targets at a time of need. Therefore, the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below

Sustainable development

10.21 LP20 of the Kirklees Local Plan highlights the need for sustainable transport links for development outlining “The council will support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking”. Similarly, Chapter 9 of the NPPF states “development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.”

10.22 The application site is located ~22m south of the boundary of Birstall District Centre within walking distance to local amenities including convenience stores, public houses, a library and a post office. There are multiple bus stops 50-70m north-east of the application site with regular buses to Cleckheaton, Heckmondwike, Huddersfield, Dewsbury, Bradford and Leeds.

10.23 The site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

- 10.24 It is considered on balance that the principle of the change of use from offices to residential use would be acceptable subject to a full assessment of all other material planning considerations undertaken below.

Urban design and historic character

- 10.25 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby paragraph 131 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

- 10.26 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

- 10.27 LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

- 10.28 Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

- 10.29 The application relates to an existing building with an existing car park and access. The external alterations are minimal, and the scheme would retain landscaping to the western and southern boundary. Therefore, there are considered no material visual amenity implications to the proposal.

Historic Environment

- 10.30 In terms of the historic environment, Chapter 16 of the NPPF outlines that great weight should be given to the conservation of a designated heritage asset and LP35 states that *“Development proposals affecting a designated heritage asset [...] should preserve or enhance the significance of the asset”*.
- 10.31 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 needs to be considered which advises that development should preserve and enhance a conservation area and its setting.
- 10.32 Paragraph 207 of the National Planning Policy Framework (NPPF) states *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.”*

10.33 Paragraph 208 of the NPPF states “*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.*”

10.34 Paragraph 212 states “*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be).*” The weight that should be given is proportionate to the importance of the affected heritage asset, which in this case is a Grade II listed building and the conservation area.

10.35 The building to which this application relates is grade II listed. The listing details are as follows:

“Methodist Chapel. Dated 1846. Possibly by James Simpson. Dressed stone with ashlar dressings. Pitched Welsh slate roof. 2 storeys on tall plinth with basement. 6 bay hall with 5 bay plain Classical front, flanked by broad clasping pilasters. 3 bay central break is pedimented with tablet in tympanum with embossed lettering: WESLEYAN CHAPEL To left and right steps lead to panelled doors with round arched fanlight in doorcase with engaged columns, entablature and blocking course. Round arched windows, with architraves, have keystone and impost blocks and marginal glazing.

Fine interior has gallery to 3 sides on thin Corinthian columns. Pilaster bay divisions to walls. Gallery and ground floor are box pewed throughout to seat 1150. Handsome organ case framed in Corinthian order. Tall pulpit up twin flights of stairs. Communion table and ornamental cast iron Communion rail. Cast iron balconies from organ to staircase doors and gallery.”

10.36 Consideration must first be given to what the heritage value of the identified heritage asset is. Following the historic approvals 89/06486 and 89/06487, which permitted the conversion of the former chapel to the current offices, much of the building’s original internal layout has been changed. Accordingly, the heritage value of the building is considered to predominantly drive from its external architectural value.

10.37 The proposed development would involve minimal works to the exterior of the building. All existing windows would be retained which is welcomed. The scheme would include additional roof lights. Given the relatively shallow roof pitch and the height of the building, the roof face is not prominent when viewed from the adjacent highways; the introduction of roof lights is therefore considered acceptable. Officers would however recommend a condition that only conservation type roof lights are used which are flush with the roof slope. It is also recommended that conditions are added to secure appropriate pointing and mortar to protect the exterior of the building.

10.38 The applicant has proposed three ‘flush slate vent tile’ set within the roof face. The proposed venting is considered acceptable however it would be conditioned that if any additional ventilation were to be required the applicant would need to provide details of this as this could have a harmful impact on the listed building.

- 10.39 Initially the scheme proposed a lift shaft, which protruded out the roof face of the building, serving lift access to the fourth floor. Officers raised concerns regarding the impact of this on visual amenity and the listed building and amended plans were received which removed the protruding element whilst retaining the internal lift.
- 10.40 Internally the proposal would require the infilling of the existing mezzanine style floors. It is however noted that there has already been significant works to the interior of the building, changing it from its original stage, and the visible original features are limited. Officers therefore do not have significant concerns regarding the impact of the development on the interior of the building however a condition is recommended to ensure all original features are retained and protected to preserve the historic character.
- 10.41 Weighing the above, it is considered that the proposed works would result in less than substantial harm to the character of the designated heritage assets, albeit on the lower end of less than substantial. This is because it would introduce new / modern features to a historic building, therefore changing it from its original stage, however the changes proposed are minimal (and to be mitigated via condition). While much of the original internals have already been lost, the proposal would further change the internal space away from the original state.
- 10.42 Paragraph 215 states:
- Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*
- 10.43 The scheme would be bringing a vacant unit back into use and would contribute towards Kirklees's housing requirements, at a time of need. The site has been vacant for several years, indicating the office is not the optimum viable use. It is therefore considered that the benefit of the proposal would outweigh any harm to the character of the heritage assets. Given the limited external alterations, no significant harm is considered to be caused to visual amenity as a result of the proposed development. It is therefore considered that, subject to conditions, the proposed development complies with LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the NPPF.

Residential Amenity

- 10.44 Section b) and c) of LP24 states that alterations to existing buildings should:
- “...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”
- 10.45 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 users.
- 10.46 Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: “*Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.*” The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

As the proposal is for a conversion of an existing building, which therefore has existing relationships and impacts on the adjacent properties, the above is not considered directly applicable to the proposal (with the above principally being focused on new buildings). Nevertheless, it provides a useful starting point and guidance.

- 10.47 The residential property most likely to be affected by the proposed development is considered to be 7 Nelson Street. The impact upon this property will be discussed below. The proposed development is considered to be a sufficient distance away (>21m) from any other neighbouring properties not referred to so as to prevent undue harm in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect.

Impact on 7 Nelson Street

- 10.48 Number 7 Nelson Street is set due north of the application site. It is noted that the openings to the north-western elevation would face the side elevation of no.7 with separation distance of ~17m. There does appear to be openings in the side elevation of no. 7 and therefore some overlooking harm could occur as a result of the proposal.
- 10.49 The openings in the north-western elevation on ground 1st and 2nd floor would serve the access to the lift which is not an inhabited space. The opening at 3rd floor would serve a secondary opening to an office. Given the use of the rooms which these windows serve, and as there is an established relationship between no.7 and the application building, as well as the significant tree cover between the properties, it is considered that no significant overlooking harm would occur over and above the existing relationship. Given no new building works are proposed, no additional overbearing or overshadowing would result from the proposal.
- 10.50 Accordingly, the proposed change of use is not considered to be detrimental to the amenity of nearby residents, in accordance with policy LP24.

Amenity of future occupiers

- 10.51 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.52 The sizes of the proposed residential units are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living

space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.

- 10.53 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

Unit	Bedrooms	Gross Internal Floor area (m2)	NDSS (GIA, sqm)	NDSS compliant
1 (duplex)	1 + study	72.3	58 (or 70 if two bed)	Yes
2 (duplex)	1	62.9	58	Yes
3 (duplex)	1	57	58	No (1sqm shortfall)
4 (duplex)	1	53.8	58	No (4.2sqm shortfall)
5 (duplex)	1	57.7	58	No (0.3sqm shortfall)
6 (duplex)	1	58.4	58	Yes
7 (duplex)	1	54.6	58	No (3.4sqm shortfall)
8 (duplex)	1	60.6	58	Yes
9 (duplex)	1	52.9	58	No (6.1sqm shortfall)
10 (duplex)	1	75.6	58	Yes
11 (duplex)	1	70.7	58	Yes
12 (duplex)	1	57.4	58	No (0.6sqm shortfall)
13 (duplex)	1	53.8	58	No (4.2sqm shortfall)
14 (duplex)	1	59.8	58	Yes
15 (duplex)	1	67	58	Yes
16 (duplex)	1	59.8	58	Yes
17 (duplex)	1	61.6	58	Yes
18 (duplex)	1 + study	61.9	58 (or 70 if two bed)	Yes (subject to study being retained as proposed)
19 (flat)	1	52.4	50	Yes
20 (flat)	1	59.7	50	Yes
21 (flat)	1	52.5	50	Yes

- 10.54 Officers did initially raise concerns regarding the size of the proposed dwellings however amended plans were sought and provided. The revised layout still falls short of the minimum recommendations as set out within the NDSS for 7 of the dwellings. This is considered acceptable in this instance as the dwellings are all duplex apartments and therefore have been assessed against a two-storey property. This is not directly relevant to duplex apartments so given the dwellings only marginally fall short of the required floor area, and given the acknowledged constraints of converting an existing (listed) building, officers are satisfied that this would provide an appropriate level of amenity for future occupiers.
- 10.55 Whilst it is noted that the scheme proposes no outdoor amenity space, which is not unusual for an apartment development, there is a grassed section of land adjacent to the site and at least three areas of Urban Green Space and Small Open Spaces within 200m of the application site so this is considered acceptable on balance.
- 10.56 The proposal utilises the historic openings and the existing floor levels, as such each opening serves two levels as the floor level is split between the lower half of the opening. The lower levels are left with a small, shallow opening which is set at roof height. The proposal initially had all the bedrooms on the ground and second floors, which were only served by the small openings, so officers also raised concerns regarding the lack of outlook and natural light to the proposed bedrooms. Upon discussion with the applicant, they suggested installing additional openings however officers had significant concerns on the visual impact and how it would affect the exterior of the listed building. Instead, amended plans were received which reconfigured the internal layout so the lower floors serve a kitchen and bathroom area, and the upper floors serve the bedrooms and living space. Therefore, the habitable rooms are all served with sufficient outlook and natural light.
- 10.57 The openings in the northern elevation serving apartments 5 and 14 would face the side elevation of the adjacent church which also serves openings. As the proposed openings serve as secondary openings it is considered the occupants will still have sufficient outlook and natural light out the other windows. Officers will not be requesting the openings are obscurely glazed due to the impact on the windows which form part of the historic listing. Any future occupants will be able to cover this window how they see appropriate.
- 10.58 The development sits aside the A62 and consideration must be given to the impact of road traffic noise on the occupiers of the proposed development. There is also a school and a church in the immediate vicinity. A condition is therefore recommended for the submission of a noise assessment to consider the impact of noise from these sources and to ensure there is no loss of amenity to future occupiers as a result. The impact on the historic openings should be considered during this assessment.
- 10.59 Similarly, consideration must also be given to the impact of poor air quality on the future occupiers of the proposal. A condition is recommended for the submission of an Air Quality Impact Assessment to ensure there is no significant harm to the amenity of future occupiers.
- 10.60 Taking the above into consideration. It is considered that the proposed dwelling, would not cause any significant harm to the residential amenity of the neighbouring or future occupants, complying with LP24 of the Kirklees Local Plan, the Housebuilders Design Guide SPD and Chapter 12 of the NPPF.

Highway issues

- 10.61 The NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. The NPPF continues that that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.62 Local Plan Policy LP21 states that:
- ‘All proposals shall:*
- a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network...*
- e. Take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;’*
- 10.63 This is supported by Chapters 9 and 12 of the NPPF and guidance within the Highways Design Guide SPDs. KC Highways Development Management (KC HDM) have also been consulted as part of this application.
- 10.64 The proposal would utilise the existing access from Chapel Lane which leads to the proposed car park that has 23 off-street parking spaces. While the LPA does not have set parking standards, typical consideration starts at 1 parking space per 1 or 2 bed flat, plus 1 visitor bay per 4 units. This would equate to 26 parking spaces; therefore, the proposal has a limited shortfall of 4. While there is a shortfall, due regard must be given to this site’s sustainable location, being 25m from the boundary of Birstall District Centre and within proximity to facilities, amenities and public transport links. Considering this, and that the identified shortfall is limited, the level of parking proposed is accepted.
- 10.65 The existing bin store is shown to be retained. K.C. Waste Strategy have concerns regarding the size and location of the proposed bin store, considering it inadequate to serve the proposed use. They advise the proposed location is unlikely to be sufficient to accommodate the expected x6 Eurobin (1100lt). They also raise concerns for the need for separation distances to the building.
- 10.66 Officers consider that this matter may be addressed via condition, although it has been raised with the applicant who is looking to address the matter prior to the committee. Should this be resolved, details shall be provided within the update.
- 10.67 The scheme is therefore considered acceptable from a highway safety perspective and would not cause significant harm over and above the existing arrangements. The proposal therefore complies with LP21 and LP22 of the Kirklees Local Plan.

Planning obligations

- 10.68 Paragraph 58 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:
- 10.69 The following represents a policy-compliant set of Section 106 obligations for the proposal:
- Affordable Housing: 4 units (two affordable rent, one first home, one other intermediate OR 4 affordable private rent (if market units to be built to rent)).
 - Public Open Space: As none on site, an off-site contribution of £50,393
- 10.70 The applicant has provided a Viability Assessment seeking to demonstrate that the proposal would not be viable if a full suite of Section 106 financial planning obligations were imposed upon them.
- 10.71 The Government's planning practice guidance provides the following overview of the Viability Assessment process, for context:

Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return. Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers.

Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.

In plan making and decision-making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission

- 10.72 The applicant's viability assessment has been reviewed by an independent viability assessor (Altair) appointed by the council, to advise officers on this specialist subject. The key matters of dispute identified by Altair are as follows:

- Open Market Value: The applicant considers that the proposal would generate £2,000,000 while Altair conclude a value of £2,335,000
- S106 Financial obligation: Altair's assessment included the council's identified Public Open Space contribution of £50,393, while the applicant's did not.
- Financial Costs: Altair have concluded on a finance rate of 6.75%, compared to the applicant's 8.00%
- Benchmark Land Value: Altair has concluded this to be £287,986. The applicant considered £450,000.

- 10.73 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme
- 10.74 Using the above variations in calculation to inform their conclusion, Altair have concluded that the scheme would be unviable. Providing no affordable housing, and no other S106 contribution, the profit level is expected to be 14.1%. Should the POS contribution of £50,393 be sought, this would fall to £11.92%. While the exact percentage profit for a full affordable housing and full S106 financial contribution has not been calculated, it can safely be assumed to be well below 11.92%.
- 10.75 Officers acknowledge that conversion viability and within town centres (with the site being on the edge of Birstall Local Centre) is a known challenge, both due to associated costs and low rental incomes. Furthermore, higher than typical costs are acknowledged due to the building's historic nature. Without committing to an exact expected profit level, officers would typically consider between 17.5% and 20% profit to be appropriate in such circumstances. Accordingly, the identified 11.92% profit level associated with just paying the Public Open Space contribution would notably fall below both the governments typically advised threshold and officers expectations. Furthermore, given that a complete removal of the identified contributions would net only 14.1%, still below the return deemed acceptable, a reduced offer cannot reasonably be sought.
- 10.76 Officers concur with the assessment undertaken by the independent assessor and accept that the provision of any affordable units and off-site public open space contribution would result in an unacceptable profit level and result in an unviable scheme. Therefore, officers recommend approval with neither the affordable unit(s) or off-site public open space contribution.

Other Matters

Trees

- 10.77 The application site is within Birstall Conservation Area and there is one protected tree (TPOs) within the application site and one TPO to the eastern boundary of the site. KC Trees were consulted on the proposal. The proposed development would have no impact on the surrounding trees providing the current hardstanding of the car park is retained. Caution should be taken during construction to not store materials at the base of trees or have any

machinery working in close proximity to the trees but this is unlikely as given the proposed works are primarily internal. The scheme therefore complies with LP33 of the Kirklees Local Plan and KC Trees have no objections to the proposal.

Biodiversity

- 10.78 The proposed development would include works to the interior of the roof to convert it into the fourth floor. KC Ecology have been consulted on the proposal. There are some cracks in the stonework and bricks near the roofs, as well as some loose roof tiles which indicates a low potential for roosting bats. KC Ecology therefore recommend a preliminary bat roost assessment is conducted prior to determination of this application. Officers are recommending this decision is delegated back to officers for the decision to be resolved following submission, review, and acceptance by K.C. Ecology of a preliminary bat assessment.
- 10.79 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 granted pursuant to an application submitted after 12 February 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.
- 10.80 The applicant has outlined within the submitted application form that the development falls under the de minimis exemption as none of the proposed works would impact on biodiversity. This application is for the change of use to an existing building and associated parking and access which is existing and primarily hardstanding. Therefore, officers have no reason to disagree with the applicant's assessment that the development falls under the de minimis exemption.

Representations

- 10.81 The following are responses to the matters raised within the public representations received, which have not been previously addressed within this assessment.

General Comments

- o Property does not own driveway where the bin storage is proposed – this belongs to the adjacent property
- o Land adjacent to adjacent building doesn't belong to the applicant

Officer response: The applicant has signed certificate of ownership A which outlines they own all the land within the red line boundary. Please note that the granting of planning permission does not override any private rights of ownership, and it is the applicant's responsibility to ensure they have the legal right to carry out the approved works. Officers would be conditioning details of waste storage, so the details are not being approved at this stage.

- o Car parking for other residents on the street was historically agreed under the previous change of use impacting the current residents whose residential car spaces are often used incorrectly in school term time

Officer response: This has not been proposed at this time, nor is it required by KC Highways. It is noted that the car park has been out of use for a while now so the other residents will not currently be able to use the parking facilities.

Objection

- o Parking and traffic are already an issue on Chapel Lane

Officer response: Parking and traffic are material considerations. The site utilises the existing access and parking and therefore won't result in any additional harm to highway safety over and above the existing arrangements on site.

- o Waste disposal using the existing sewers could be a problem

Officer response: This is not a material consideration for a development of this nature.

Support

- Support the restoration of a disused building
- Chapel is an important part of Birstall's history

Officer response: This is noted and aligns with officer recommendation

- If these apartments are for rent or purchase, they will hopefully attract people into the area who may work in surrounding towns and for those commuting via motorway network but only if it is not all social housing.

Officer response: This is noted and aligns with officer recommendation. The requirement for affordable housing is outlined in the other matters section of this report.

- Access off Huddersfield Road is already congested
- There is also a Primary school opposite the building, extra security measures to ensure the safety for schoolchildren need putting in place – Chapel Lane is a one way street and vehicles exiting/entering the proposed car park may cause a hazard at school times.
- The hatched markings allow traffic out of Brookroyd but if going towards Leeds they then turn right and views of oncoming traffic is often restricted

Officer response: The site utilises the existing access and parking and therefore won't result in any additional harm to highway safety over and above the existing arrangements on site.

- Public transport improvements should also be considered as commuting into Leeds and Huddersfield at the moment is difficult as often buses don't turn up

Officer response: This matter is considered outside the remit and scope of this application.

11.0 CONCLUSION

- 11.1 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.
- 11.2 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**, subject delegation back to receive and assess a bat survey, and to the imposition of the conditions listed below and acceptable submission of a preliminary bat roost assessment.

12.0 CONDITIONS

(Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

- Three years to commence development
- Development to be carried out in accordance with the approved plans and specifications
- Roof lights to be conservation type, flush with the roof slope
- Pointing and mortar to be in keeping with existing
- If any additional ventilation is to be required, it would need prior consent from the LPA
- Any existing original features shall be retained and protected
- Obscure glazing to side elevation opening
- Waste storage shall be appropriately located
- Ecological mitigation (subject to bat survey outcome)

Background Papers:

Application and history files.

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024%2f92105>

Certificate of Ownership

Certificate A signed.