

**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:	2024/62/92880/E
Site Address:	55, Station Lane, Birkenshaw, BD11 2JE
Description:	Change of use from mix use beauty treatment facilities/dwelling to one dwelling (Listed Building)
Recommending Officer:	Edward Cheseldine

DECISION – CONDITIONAL FULL PERMISSION

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Emma Thompson

AUTHORISED OFFICER

Date: 9-December-2024

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Officer Report

2024/92880 - 55, Station Lane, Birkenshaw, BD11 2JE

Site Description

55 Station Lane is a detached grade II listed building in Birkenshaw which has previously been used as a part beauty treatment facility with residential accommodation. The building is set within a modest curtilage, on a corner plot between Mill Lane and Station Lane. The area is predominantly residential, with dwellings to the north, east and west of the property.

The building is Grade II listed. List Description:

Detached house. Late C.18 with C.19 embellishments. Hammer dressed stone with rusticated quoins. Gabled stone slate roof. Two storeys. Symmetrical 3-bay facade. Central doorway with C.19 Ionic portico with segmental open pediment. C.19 canted bay to each side with entablature and blocking course. At 1st floor is central single light with paired light to left and right all with recent casements. Pediment has oval light with glazing bars. Garden front is similar with plainer details. Cartouche in pediment. Ashlar stack at apex with scrolled support and moulded string.

Application Description

The applicant is seeking a change of use from mix use beauty treatment facilities/dwelling to one dwelling (Listed Building).

There are no internal or external alterations to the property.

Negotiations/Amendments

A floorplan was requested to assess impact to residential amenity or neighbours and future occupiers.

Relevant Planning History

2014/91374 - Change of use and alterations to part of dwelling to form beauty treatment facilities; demolition of part of boundary wall; and erection of railings and gate (Listed Building) – Full permission granted.

Public Representations

The application is for a change of use that will not affect the significance of the listed building or its setting.

Therefore, the application was advertised by neighbourhood notification letters only. These expired on the 20-Nov-2024. As a result of the publicity, there were no representations.

Consultation Responses

None required.

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 site is UNALLOCATED on the Kirklees Local Plan Proposals Map.

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

Kirklees Local Plan Policies

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP7 – Efficient and effective use of land and buildings
- LP21 – Parking
- LP22 – Highway Safety
- LP24 – Design
- LP35 – Historic environment

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, and the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 - Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Other Material Considerations:

- Planning (Listed Buildings and Conservation Areas) Act 1990
- Kirklees Housebuilder Design Guide Supplementary Planning Document (2021)
- Kirklees Highways Design Guide SPD (2019).
- Waste Management Design Guide for New Developments (Version 5, October 2020).

Assessment

- 1) Principle of development
 - a) Presumption in favour of sustainable development
- b) Historic Environment
 - c) Change of Use
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Environmental matters
- 6) Representations
- 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.

Historic Environment

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires, that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 (1) requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

In respect of the grade II listed building the application is for a change of use to the building. There are no external changes to elevations of the listed building.

Paragraph 205 of the NPPF states that:

“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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

Paragraph 207 goes on to state that:

“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.”

There will be no harm to the listed building or its setting.

Change of Use to Residential Dwellings

'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 part change of use would not contribute to this supply. The subdivision of a listed building to create more units could cause harm to its historic fabric and its setting, therefore the proposal meets the requirements of LP7 according with the Local Plan in terms of the efficient use.

Impact on Visual Amenity

LP24 of the Kirklees Local Plan states 'proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.

LP35 of the Kirklees Local Plan considered the historic environment, 'development proposals affecting a designated heritage asset (or an

archaeological site of national importance) should preserve or enhance the significance of the asset.

In this instance, the application regards a grade II listed building. The application preserves the historic and architectural features of the building and its curtilage. The proposal will preserve the setting of the historic environment which accords with LP24 & LP35 of the Kirklees Local Plan.

The scheme is appropriate in terms of conservation and preservation the heritage asset, the impact of the design upon this significance, and the future viability of the building. The development preserves the setting of the listed building, according with Policies LP24(a), LP35, and Chapter 16 of the NPPF as well as paragraphs 205-207.

Impact on Residential Amenity

Policy LP24 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.

There are no additional openings proposed other than what currently exists. All habitable rooms are served by sufficient window openings that provide a flow of light.

These dwelling have an outlook towards existing properties, the spatial layout of which has been previously set. The building has been used for a retail use. Given the distances between properties has been set and there has been a functional use of the building, the change of use is not considered to present a material change to the privacy of neighbouring properties.

There are no other impacts, in terms of a loss of light, loss of outlook or an overbearing impact.

Amenity of the Proposed Occupiers

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'. NDSS, therefore provide guidance to indicate adequate size for new dwellings.

The submitted floorplans are for the previous application, the number of bedrooms has therefore been equated from the size of rooms on the first-floor. The dwelling will have 6 rooms that could accommodate bedrooms, over 2 floors. NDSS recommend an internal floor space for such a dwelling to be 123m². The dwelling will be 4521m². Each bedroom is an appropriate size.

Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *"All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces."*

To the north of the site is an outdoor area which is appropriate for the number of potential occupants. It is bounded by a high stone wall for privacy and is therefore considered appropriate for amenity space.

Impact to Highways Safety

Paragraph 115 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."

Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

The access is existing, it is not considered there will be an intensification of use as part of the site had customers.

Policy set out in the Kirklees Highways Design Guide SPD states, *4+ bedroom dwellings provide three off-street spaces*. There are 7 car parking spaces which are set to remain.

The change of use is therefore acceptable in terms of Policy LP21 & LP22.

Environmental Matters

Ecology & Biodiversity Net Gain

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.

Furthermore, Biodiversity Net Gain (BNG) came into effect for minor sites on 02 April 2024. There is a requirement to replace the loss of a habitat whilst delivering at least 10% biodiversity net gain.

The applicant has stated the application is not subject to Biodiversity Net Gain (BNG) legislation as there are no external alterations. There are a number of exemptions for BNG legislation, included 'Di Minimis' development. As the application is purely for a change of use with no external alterations, there would not be a loss of habitat over 25m², therefore the application is exempt from BNG legislation.

Carbon Budget

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

Conclusion

The application for permission for a change of use at 55 Station Lane has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable principle of the change of use and lack of harm in terms of the historic environment, visual amenity, residential amenity and highway safety, the proposed change of use is considered to be acceptable.

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

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered

that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: - 2024/92880

Officer Recommendation: Permission Granted

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

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

1. 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 to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 and LP35 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan	-		16 October 2024
Existing floor plans	-	-	06 December 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.

A floorplan was requested to assess impact to residential amenity or neighbours and future occupiers.

