

**KIRKLEES METROPOLITAN COUNCIL
DEVELOPMENT & MASTER PLANNING SERVICE**

DEVELOPMENT MANAGEMENT

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

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

Reference no. 2024/CL/92938/W

**Site Address 1st, 2nd and 3rd Floors, 1, Lord
Street, Huddersfield, HD1 1QA**

**Description Prior notification for change of use
from Class E
(commercial/business/service) to 9
residential apartments (within a
Conservation Area)**

Recommending Officer Katie Chew

DECISION - DETAILS APPROVED

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

Kevin Walton

AUTHORISED OFFICER

Date:04-Dec-2024

Officer Report

Application: 2024/92938

Application Site: 1st, 2nd and 3rd Floors, 1, Lord Street, Huddersfield, HD1 1QA

No. 1 Lord Street is a prominent building located at the corner of Lord Street and Beast Market. The building has a curved frontage with a ramped access to one side. The building is constructed with an external face of ashlar stone.

The building is currently vacant and has been previously used for an E(a) or E(c) use on the ground floor and offices E(g)(i) on the upper floors.

The site lies within Huddersfield Town Centre. It is also within a Conservation Area. The property is attached to a Listed Building (nos.7-9 Beast Market).

Proposal: Prior notification for change of use from Class E (commercial/business/service) to 9 residential apartments (within a Conservation Area).

Unit sizes vary from between 37-42sqm in size and comprise of one-bedroom apartments comprising of a bedroom, bathroom and living area.

External alterations are proposed under this application in the form of the installation of 1 dormer window within the roof of the building. This element of the proposals is discussed in more detail within the Officer report.

History of negotiations/amendments received

Amended plans were sought to include a section drawing, remove the originally proposed dormer window, and ensure that all studio apartments are 'true' studios with bedrooms not enclosed to ensure sufficient natural light can be gained throughout the whole of the apartment.

Relevant Planning History

2020/92488 – Prior approval for change of use from office (B1) to 14 student apartments (within a Conservation Area). Approved 25th September 2020.

2020/90306 – Alterations to convert vacant ground floor shop to 4 studio apartments (within a Conservation Area). Approved 14th July 2020.

2019/92185 – Alterations to convert vacant ground floor shop to 5 studio apartments (within a Conservation Area). Refused 28th August 2019.

2018/91684 – Prior approval for change of use from office (B1) to 14 student apartments (within a Conservation Area). Approved 27th July 2018.

1. Procedural Matters

Prior notifications for the change of use of premises from Class E (commercial, business & service) to a use falling within Class C3 (dwellinghouses) are considered against the requirements as set out by the Town and Country Planning (General Permitted Development) Order 2015 (Amended) Schedule 2, Part 3, Class MA, condition 2:

Limitations for Part 3, Class MA.1 Development

Development is not permitted: -

(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;	Pass: The use of the building has been Class E at least over the last two-year period (based on desk based assessment).
(d) if land covered by, or within the curtilage of, the building— (i) is or forms part of a site of special scientific interest; (ii) is or forms part of a listed building or land within its curtilage; (iii) is or forms part of a scheduled monument or land within its curtilage; (iv) is or forms part of a safety hazard area; or (v) is or forms part of a military explosives storage area;	Pass: The development is not in any category in paragraph (d).
(e) if the building is within— (i) an area of outstanding natural beauty; (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(3); (iii) the Broads; (iv) a National Park; or	Pass: The building is not in any category in paragraph (e).

(v) a World Heritage Site;	
(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;	Pass: The building is not occupied under any agricultural tenancy.
(g) before 1 August 2022, if— (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.	Pass: The building is not within and land affected by an Article 4 Direction.

*Subparagraph (2):

The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Class Order –

(a) the following classes of the Schedule as it had effect before 1st September 2020—

- (i) Class A1 (shops);
- (ii) Class A2 (financial and professional services);
- (iii) Class A3 (food and drink);
- (iv) Class B1 (business);
- (v) Class D1(a) (non-residential institutions – medical or health services);
- (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
- (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

The proposal is found to not conflict with the requirements of MA.1.

Where a proposal is development under Class MA and complies with the restrictions of MA.1., the proposal is permitted subject to the conditions outlined

in MA.2. This includes, but is not limited to, before beginning the development the applicant must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required on considerations MA.2.(2) a-i. These are outlined and considered as below.

The application for Prior Approval is to be submitted and assessed in accordance with the 'Procedure for applications for prior approval under Part 3', as set out in Section W of Part 3. This includes requirements for public representation.

In addition to the requirements of Class MA (and section W), the GPDO 2015 has the following general provision:

(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse-

- (a) Where the gross internal floor area is less than 37 square metres in size; or
- (b) That does not comply with the nationally described space standards issued by the Department for Communities and Local Government on 27th March 2015.

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.

Representations

Part W of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (8) states that:

'The local planning authority must give notice of the proposed development—

(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—

- (i) describes the proposed development;*
 - (ii) provides the address of the proposed development;*
 - (iii) specifies the date by which representations are to be received by the local planning authority; or*
- (b) by serving a notice in that form*

- (i) on any adjoining owner or occupier; and*
- (ii) where the proposed development relates to part of a building, on any owner or occupier of the other part or parts of the building'.*

In this instance the LPA have advertised by Neighbour Notification Letters to any adjoining owners or occupiers of the site, details of which are outlined below.

Final publicity expires:

Neighbour Letters – Expired 20th November 2024.

1 general comment has been received; comments are summarised below.

- Concerns in respect of the date of the submitted Noise Survey, which is dated 23rd January 2018, which is almost 7 years old whereby changes to the Town Centre and surrounding premises have taken place since this was undertaken. Will a more up to date assessment be undertaken?

Officer note: Noted. This has also been highlighted by the Council's Environmental Health team of which their comments are discussed in more detail further into the report.

- The submitted Noise Survey makes some interesting assumptions, including but not limited to the reference of Emergency vehicles being an uncommon occurrence. Given this location is in the Town Centre and near to buildings that are part of the nighttime economy this is a generous assumption.

Officer note: Noted. Noise impacts are considered below.

- Concerns over the use of the private car park adjacent to the proposed development by residents or their visitors, this could cause considerable inconvenience to the staff and volunteers who work at the Mission.

Officer note: Noted. Highway impacts are considered below.

1 comment has also been received in support of the proposals; this is summarised below.

- The applicants would benefit from liaising with their neighbours to resolve concerns relating to noise, parking and other details.
- This should be wholly supported subject to ensuring adequate provision for disposal and collection of waste.
- It's an attractive building and little appears to be changing as a result of this conversion, apart from a reasonably designed dormer window.

Officer note: Noted. Highway and waste collection impacts are considered below.

Consultation Responses

KC Environmental Health – Comments received 7th November 2024. No objections to the proposals subject to the submission of an up-to-date Noise Assessment and written evidence to demonstrate that the airborne sound insulation performance of the party floors/walls/ceiling of the development is of a minimum of 53dB $D_{nTW} + C_{tr}$. These can be secured by condition.

KC Highways Development Management – Comments received 29th October 2024. No objections subject to the imposition of conditions which requires details of a secure cycle storage facility for the apartments to be submitted and details of the provision to be made for the number and size of vehicles expected during the development, parking, loading and unloading of contractors' plant and materials, the storage of building materials and the parking of the workforce during construction works.

Assessment

Space Standards

The units proposed are to measure at least 37sqm in size. This has been reviewed against the Nationally Described Space Standards, with all units meeting the requirements for a 1 bed, single person dwelling. This assessment has also taken into account the technical requirements of NDSS sets out at part f. that any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m² within the Gross Internal Area), in respect of the third floor apartment.

In addition to the above, the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area (specifically in relation to the third-floor apartment), and therefore is deemed to be acceptable.

- (a) Transport impacts of the development, particularly to ensure safe site access;

This application is for prior notification for a change of use from Class E to 9 residential apartments in a building fronting on to Lord Street, a 30mph 1-way local town centre access road of approximately 7m width with footways on both sides and street lighting present. There are No Waiting at Any Time TRO

markings outside the site on Beast Market with some pay and display parking bays on the site side of Lord Street, with bus stop markings opposite.

No parking is provided with the application however, due to the size and type of accommodation to be provided, and that the site is located within a very sustainable Town Centre location, this would not be a concern.

The site is located within the sustainable town centre of Huddersfield with numerous bus stops on high frequency routes within 200m of the site. The main Huddersfield bus station and rail station are within approximately 500m of the site, as are many retail opportunities and services and there are public car parks close by.

Due to the very sustainable town centre location, the Council's Highways Officers would expect trip generation to be far lower than the existing commercial use and due to location and local parking restrictions they do not consider that a lack of parking at the proposal site would be a concern. However, Officers would like to see some safe and secure cycle parking at the site and retention of the cycle parking condition.

The only concern Highway Officers would have would be the size and location of the bin collection point. Drawing No 24743_P_102 indicated two euro-bins located to the side of the premises near the existing access to the basement with the legend "(arrangement as existing – no change proposed)". An informal consultation with our colleagues in the Kirklees Waste Strategy team indicated that this would be suitable for 9 apartments and collections were made locally from adjacent buildings, however they did indicate that they would like to see a suitable bin store to shield the bins from view. From a highways perspective the location is approximately 11m from the adopted highway, where collection would be taken from, and this is acceptable. It is noted that the access road where the bins would be stored is unadopted, however the bin storage area is within the red-line boundary.

Due to the constrained town centre location, Highway Officers would also like to see a construction access management plan to show how the site will be accessed during all phases of development, including the number and type of vehicles expected to visit the site, parking locations for both contractors vehicles and deliveries, how any larger deliveries will be managed, including use of a banksman or traffic management if required. This can be conditioned.

With this Highway Officers consider that the application is acceptable on highways grounds subject to the recommended conditions. It is therefore considered that on balance the proposals would be acceptable with regards to MA.2(2)(a) in this instance.

(b) Contamination risks in relation to the building;

There is no concern regarding contamination risk. The site has not been identified as being located on or within close proximity of contaminated land. In any case, the application proposes internal works to the first, second and third floors of the building only.

(c) Flooding risks in relation to the building;

The building is within Flood Zone 1 and is therefore low risk. As such there is no concern regarding flood risk.

(d) Impacts of noise from commercial premises on the intended occupiers of the development;

KC Environmental Health were consulted on the proposals and have raised some concerns in respect of the Environmental Noise Survey authored by soundtesting dated 23rd January 2018 (ref: 10104 E Rev1) submitted. ENVH Officers consider that whilst the report references the external sources of noise, it fails to consider the commercial use of the ground floor with particular reference to the transmission of noise. The applicant is hereby informed that a higher level of sound insulation is required where commercial and residential uses share a party wall/floor/ceiling. The requirement is a minimum of 10dB above Buildings Regulations i.e. 53dB $D_{nTw} + C_{tr}$. In addition, the report is coming up to seven years old and therefore ENVH Officers recommend the submission of an up-to-date Noise Assessment to consider all sources of noise, this can be secured via condition and is deemed to be reasonable.

Accordingly, subject to the recommended conditions, officers are satisfied that there is limited prospect of harmful noise pollution upon the proposed development. The proposal is deemed to comply with the aims of Policies LP24 and LP52 of the Kirklees Local Plan.

(e)where—

(i)the building is located in a conservation area, and

(ii)the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;

Whilst the application site is located within Huddersfield Town Centre Conservation Area, no change of use is proposed to the ground floor and

therefore it is not considered that the proposals would impact on the character or sustainability of the Conservation Area on this occasion.

(f)the provision of adequate natural light in all habitable rooms of the dwellinghouses;

MA.2(2)(f) requires the provision of adequate natural light in all habitable rooms of the dwellinghouses.

For clarification purposes, the interpretation under Part 3 of Schedule 2 provides an interpretation of what a 'habitable room' means and states that habitable rooms '*means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.*'

The submitted plans confirm that the apartments would benefit from several windows on the north, south and western elevations, as well as in the roof of the existing building. In this case all the habitable accommodation proposed within the building would be served by existing windows. It is therefore concluded that there is the provision of adequate natural light in all habitable rooms provided by the existing openings, as such the proposals are deemed to be acceptable with regard to MA.2(2)(f).

(g)the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

The site is located within Huddersfield Town Centre. The Council do not consider the surrounding area to be important for general or heavy industry, waste management, storage and distribution or a mix of such uses. As such, paragraph g) is considered to not be applicable.

(h)where the development involves the loss of services provided by—

(i)a registered nursery, or

(ii)a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost; and

The site was previously used as officers. Therefore, the above is not applicable.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The fire risk condition is defined within MA.3: MA.3.

Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

(a) contain two or more dwellinghouses; and

(b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

The proposal complies with (a), seeking over two units.

For (b), these have been extracted from the Town and Country Planning (Development Management Procedure) (England) Order 2015:

(3) The height condition is that—

(a) the building is 18 metres or more in height; or

(b) the building contains 7 or more storeys.

(7) For the purpose of paragraph (3)—

(a) the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms);

(b) when determining the number of storeys a building has—

(i) any storey which is below ground level is to be ignored; and (ii) any mezzanine floor is a storey if its internal floor area is at least 50% of the internal floor area of the largest storey in the building which is not below ground level.

The Planning Practice Guidance suite includes guidance on how to measure the height. This states the measurement should be taken from the 'upper floor surface of the top floor, to ground level on the lowest side of the building'. Under this measurement guidance, the building is below 18m in height. It also does not have 7 storeys. Accordingly, the proposal does not meet the 'fire risk condition' and the proposal does not conflict with (i).

Conclusion

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

Decision Authorisation – Delegated Powers

Application Number: 2024/92938

Officer Recommendation: Approve details.

1. Details of a secure cycle storage facility for the apartments shall be submitted to and approved in writing by the Local Planning Authority before any of the apartments are first occupied. The facility shall be installed in accordance with the approved details and made available for use by residents before any apartment is first occupied and shall thereafter be retained as such.

Reason: This is to ensure that future occupants have adequate cycle storage facilities, so as to promote sustainable transport options in order to mitigate the highway and transport impacts of the development in accordance with the aims of Policies LP20 and LP21(g) of the Kirklees Local Plan.

1. Before alterations to the internal layout commence, details of the provision to be made for the number and size of vehicles expected during the development, parking, loading and unloading of contractors' plant and materials, the storage of building materials and the parking of the workforce during construction works shall be submitted to and approved in writing by the Local Planning Authority. The conversion and construction works shall be carried out in accordance with the approved scheme.

Reason: In the interests of highway safety and to accord with LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

2. Before alterations to the internal layout commence, a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including road traffic and commercial premises shall be submitted to and approved in writing by the Local Planning Authority.

The report shall:

- a) Determine the existing noise climate
- a) Predict the noise climate in living rooms (daytime), bedrooms (nighttime) and other habitable rooms of the development

- b) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

3. Before the development is brought into use written evidence to demonstrate that the airborne sound insulation performance of the party floors/walls/ceiling of the development is of a minimum of 53dB $D_{nTW} + C_{tr}$ shall be submitted to and approved in writing by the Local Planning Authority. If it cannot be demonstrated that the aforementioned airborne sound insulation performance has been achieved, a scheme incorporating further measures to achieve the sound insulation performance shall be submitted to and approved in writing by the Local Planning Authority. All works comprised within those further measures shall be completed and further written evidence to demonstrate that the aforementioned sound insulation performance level has been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: All noise assessments should be carried out by a competent person. The applicant may wish to contact the Association of Noise Consultants <http://www.association-of-noise-consultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Site Location Plan	24743_P_101	-	15 th October 2024
Site Block Plan	24743_P_102	-	15 th October 2024

Existing Floor Plans & Elevations	24743_P_103	-	15 th October 2024
Proposed Floor Plans & Elevations	24743_P_104	A	19 th November 2024
Supporting Letter – Supporting Information	-	-	15 th October 2024
Environmental Noise Assessment – Supporting Information	10104E	Rev 1	15 th October 2024

Report dated: 21st November 2024.