

**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:	2025/62/90364/E
Site Address:	43, Daisy Hill, Dewsbury, WF13 1LF
Description:	Alterations to convert retail unit to one residential unit (within a Conservation Area)
Recommending Officer:	Nina Sayers

DECISION - Refuse

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 28-MAY-2025

Officer Report

Site Description

Address: 43 Daisy Hill, Dewsbury, WF13 1LF

The application relates to a two-storey, mid terrace retail unit on Daisy Hill in Dewsbury. The site is located within Dewsbury Town Centre, outside of the primary shopping area, as outlined within the Kirklees Local Plan. The property adjoins Grade II Listed property to the east and is within Dewsbury Town Centre Conservation Area. The site is surrounded by a mixture of residential and commercial properties.

Description of Proposal

The application is seeking planning permission for alterations to convert a retail unit into one residential unit (within a Conservation Area).

The proposal would remove the existing shuttering and would replace it with a doorway and window. The surrounding wall would be finished in render. Internally the ground floor would be changed into an open plan bedroom and lounge with a kitchen area and shower room to the rear.

History of negotiations

No amendments were sought or provided.

Relevant Planning History

No relevant planning history.

Representations

The application was advertised by site notice, in the press and was publicised online due to being located within a conservation area. Final publicity expired 10th April 2025.

No representations was received in response to the above publication.

Consultation Responses

KC Environmental Health – No objections subject to conditions.

KC Strategic Housing – No affordable housing required.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th

February 2019). The Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), both require development to be considerate in terms of the character of the host property and the wider street scene.

The site is located within Dewsbury Town Centre and Dewsbury Conservation Area as outlined within the Kirklees Local Plan.

Kirklees Local Plan:

- **LP1** – Achieving sustainable development
- **LP2** – Place shaping
- **LP13** – Town Centre Uses
- **LP15** – Residential use in town centres
- **LP21** – Highways and access
- **LP22** – Parking
- **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 12th December 2024, 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 7 – Ensuring the Vitality of Town Centre
- Chapter 12 – Achieving well-designed places
- Chapter 16 – Conserving and enhancing the built environment

Other Material Considerations:

- Kirklees Highways Design Guide SPD (2019).
- Kirklees Housebuilders Design Guide SPD (2021).
- National Design Space Standards

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity and historic environment
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The proposal is for the change of use of a retail unit to a residential flat.

The application site is recorded as being located within Dewsbury Town Centre and Dewsbury Conservation Area as outlined within the Kirklees Local Plan.

Housing Density

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 but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer’s assessment.

Town Centre Use

Policy LP15 provides guidance for the development of residential uses within defined town centres. It states that residential uses within the defined town centres will be supported subject to a number of factors, relevant to this application is sub-paragraph c which states “the protection and retention of existing ground floor uses and active frontages both within and outside the primary shopping area”. Paragraph 9.25 goes on to outline that ‘the principle for the provision of residential accommodation in town centres is supported provided it does not lead to an adverse impact on the operation of the towns retail core or would reduce space for other main town centre uses if outside of the primary shopping area’.

Policy LP18 states that Dewsbury Town Centre will be a place of vibrancy, vitality, and diversity, with a mix of uses to attract visitors and provide new space for town centre living.

The application site is not located within the primary shopping area or within a primary shopping frontage however the existing ground floor does host a retail shop frontage. The proposal relates to a street which hosts predominantly commercial uses however the adjacent property serves residential flats. The nearby commercial uses are predominantly retail use with an active shop frontage.

The existing retail use and shop frontage and its location within the middle of the active shopping frontage and commercialised shop front is considered to serve as a significant visual link in defining Dewsbury Town Centre. The loss of the ground floor retail frontage to residential use would have a significant impact on the centre as a whole and setting a precedent for conversion could result in a cumulative impact which would significantly alter the appearance and use of the town centre.

The submitted Design and Access statement states:

“The economic decline of the area means that the town is unable to support such a large retail core and the Council should be looking to manage the decline of the retail core, promoting other uses that maintain and stimulate the vitality and vibrancy of the town centre. In this case the proposed development replaces a unit that has been vacant for years, with little sign of being used for retail use.”

However, no details have been provided with regard to the recent history of the building, or specifics of how long it has been vacant, and why it is considered that there is no option other than to convert the use of the building to residential. It is not clear from the information submitted that all reasonable efforts have been made to preserve the ground floor of 43 Daisy Hill as a retail unit or as another use falling within that which is defined as a ‘main town centre use’.

LP13 outlines that “proposals that have a significant adverse impact on the vitality and viability of a centre, or compromise the role and function of a centre will not be supported.” The loss of a main town centre use could only be permitted where it is evident that there are material considerations which clearly indicate that the element of the scheme which does not accord with the development plan is outweighed by those considerations. In this case it has not been demonstrated to what extent the continuation of a main town centre use has been sought to be secured / provided.

It is noted that the proposal would lead to a provision of a one-bedroomed dwelling, and this is a factor which can be afforded some weight in favour of the scheme. However, this is weighed against the loss of the ground floor of the building as a main town centre use, the prominence of this building in the

identified centre and the role/contribution this plays in relation to the centre and the use for commercial purposes within the Conservation Area.

Therefore, for the reasons set out above, the adverse impacts of granting permission and the loss of a ground floor retail unit within Dewsbury Town Centre would not outweigh the benefits of providing additional housing. The application is therefore considered to be contrary to Policies LP13 and LP15 of the Kirklees Local Plan and Chapter 7 of the NPPF.

2 – Impact on visual amenity and historic environment

Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.132 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district.

The site is within the Dewsbury Town Centre Conservation Area.

Paragraph 200 of the National Planning Policy Framework 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.”

Paragraph 201 of the National Planning Policy Framework 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.”

This is supported by LP35 of the Kirklees Local Plan which states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset.

The proposal would include the removal of the shop frontage and fascia and would replace it with a window and doorway. An additional window would also be installed in the side elevation. No details of window sills or lintels have been proposed and to ensure this is in keeping with the historic character of the conservation area, details are recommended to be secured via condition should this application be approved.

Visually, the shop front forms a key part of Daisy Hill and Dewsbury Town Centre and as such from a visual amenity perspective it would be preferred that the retail unit is retained however this is not considered to be a reason to refuse the application on its own.

Having taken the above into account, it is considered that subject to conditions the proposed development would not cause any significant harm to the visual amenity of either the host property, the wider street scene or the historic character of the area, complying with Policy LP24 and LP35 of the Kirklees Local Plan and the aims of chapter 12 and 16 of the National Planning Policy Framework.

3 – Impact on residential amenity

Sections B & C of the Kirklees Local Plan Policy LP24 which states that alterations to existing buildings should: *‘Maintain appropriate distances between buildings’* and *‘...minimise impact on residential amenity of future and neighbouring occupiers’*.

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 occupiers.

Principle 6 of the Housebuilders Design Guide sets out 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 text supporting Principle 6 of the Kirklees Housebuilder Design Guide SPD states set out recommended minimum separation distances for two storey properties, these being:

- 21 metres between facing windows of habitable rooms;
- 12 metres between windows of habitable rooms that face onto windows of non-habitable rooms;
- For a new dwelling in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metre distance from the side wall of the new dwelling to a shared boundary.

The proposed dwelling is considered a significant distance from any residential dwellings to prevent any significant harm to the residential amenity of neighbouring occupants over and above the existing arrangements on site.

Impact on future occupiers

The amenity of the future occupiers must also be considered. 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, these are not currently adopted in the Kirklees Local Plan.”* Further to this, 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.”

The proposal would serve one, one-bedroom flat with a primary opening on the front elevation at ground floor level. The proposed dwelling exceeds the minimum recommendations as set out within the Nationally Described Space Standards (NDSS) for such a dwelling. The opening in the front elevation would front the footway and would be at head height for the passersby. It would be set ~8.5m from the front elevation of 34-36 Daisy Hill which serves a fully glazed shop front. It is therefore considered that there would be harmful overlooking to future occupants as a result of the proposed application.

It is also noted that the proposed flat is only served by one window to the front which serves the open plan living and bedroom space and one small window to the rear which serves the kitchen. Given the shape of the proposed flat, this is considered to provide insufficient natural light and outlook for the future occupants, particularly when considering that due to the overlooking harm discussed above, any future occupant is likely to prefer the window at least partially obscured.

It is therefore considered that cumulatively the impact of the lack of natural light, lack of outlook and overlooking harm would result in a substandard level of amenity for future occupiers. This fails to comply with LP24 of the Kirklees Local Plan, chapter 12 of the NPPF and the Housebuilders Design Guide SPD.

4 – Impact on highway safety

The site is accessed via Daisy Hill. No off-street parking provision has been provided and there is restricted on street parking. The site is ~225m south-east from Dewsbury Train Station and ~85m north of Dewsbury Bus Station. Given the proximity to public transport links and as the site is located within Dewsbury Town Centre, the lack of parking provision is considered acceptable in this instance. Bin storage could be secured by condition should this application be recommended for approval.

Therefore, the proposal scheme is considered to comply with the recommendations in the Highways Design Guide and policies LP21 and LP22 of the Kirklees Local Plan.

5 – Other matters

Biodiversity

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.

The submitted application form sets out that the scheme is exempt under the de-minimis exemption because the application relates to the change of use of an existing building and with no habitat to be altered as part of the proposal. The case officer considered this exemption applicable as put forward by the applicant within the application form. The development is therefore considered to benefit from the de-minimis exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 and there is no requirement for BNG to be provided in respect of the aforementioned legislation.

The proposal therefore complies with Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD.

There are no other matters for consideration.

6 - Representations

No representation was received.

7 – Conclusion

This application for the change of use of an existing retail unit to residential use at 43 Daisy Hill been assessed against relevant policies in the development plan as listed in the policy section of the report, the House Design SPD, the National Planning Policy Framework and other material considerations.

The principle of removing a retail shop frontage within Dewsbury Town Centre is considered to cause harm to the vitality and viability of the town centre and visual amenity. As well as this, the cumulatively the impact of the lack of natural light, lack of outlook and overlooking harm would result in a substandard level of amenity for future occupiers.

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Recommendation

Refusal

Decision Authorisation - Delegated Powers

Application Number: 2025/90364

Officer Recommendation: Refusal

Reasons for refusal

1. The proposed development would result in the loss of a 'main town centre use' to the ground floor of 43 Daisy Hill, located in a prominent position within Dewsbury Town Centre. It is concluded that the application has failed to demonstrate that the proposal would not harm the viability and vitality of Dewsbury Town Centre and is therefore contrary to Policies LP13 and LP15 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework.
1. The development would result in a poor level of natural light and outlook to the proposed dwelling, along with overlooking harm from passersby and shoppers in 34-36 Daisy Hill. The scheme therefore fails to ensure a high standard of amenity to future occupants, contrary to Policy LP24 of the Kirklees Local Plan, Chapter 12 of the NPPF and principle 16 of the Housebuilders Design Guide SPD.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	2025-43DH-01		17/03/2025
Existing and Proposed Elevations	2025-43DH-03		17/03/2025
Existing and Proposed Plan	2025-43DH-02		17/03/2025
Design and Access/Heritage Statement			17/03/2025

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 have, where possible, made a pre-application advice service available, complied with the Kirklees

Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

As the principle of development is unacceptable, and as the concerns regarding residential amenity could not be easily addressed, no amended plans were sought in this instance.

Report Dated: 23/05/2025