



Appeal Decision

Site visit made on 7 October 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 October 2025

Appeal Ref: APP/Z4718/W/25/3369783

43 Daisy Hill, Dewsbury WF13 1LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Masum Karolia against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2025/62/90364/E.
 - The development is the proposed change of use of retail space to one bed flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the vitality and viability of Dewsbury Town Centre; and
 - whether future occupiers would have satisfactory living conditions with particular regard to outlook, light and privacy in respect of the elevation facing Daisy Hill.

Reasons

Dewsbury Town Centre

3. The appeal site is located within Dewsbury Town Centre, which is identified as a principle town centre within the Kirklees Local Plan, Strategy and Policies, adopted February 2019 (KLP), although it is said not to be within the primary shopping area or part of a primary shopping frontage. KLP Policy LP13 says 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 supporting text to Policy LP13 advocates a positive approach to new town centre development, including supporting the introduction of residential uses within the town centre. Furthermore, KLP Policy LP18 adds that Dewsbury Town Centre will be a place of vibrancy, vitality and diversity, with a mix of uses to attract visitors and that town centre living should be supported.
4. The supporting text to KLP Policy LP15 also recognises the importance of encouraging residential development into town centres, including outside of their core operating times. However, KLP Policy LP15 also says residential uses shall normally only be permitted on the upper floors of town centre properties, to avoid prejudicing existing established uses, and requires the protection and retention of existing ground floor uses and active frontages both within and outside the primary shopping area.

5. The appeal site is a ground floor shop below a residential unit, located away from the main primary shopping area, on a relatively narrow road that has a mixture of uses, including residential, retail, and community uses, along with offices of law firms. The road is not pedestrianised, and I saw on my site inspection that its alignment did not mean it was visually connected to the nearby shopping area on Westgate. I also saw that the appeal site had a small frontage, and it was not in active use, with its shutters closed, it also had a marketing board attached to it. Although there were also other retail units nearby on Daisy Hill, many of these also had their shutters closed at the time of my site inspection, which was during the middle of the day, indicating to me they were not in current use, or that this part of Daisy Hill was a particularly active shopping area.
6. The neighbouring property, no. 41, contains a ground floor retail unit along with signage for “Kennedy Hairdressing”, although at the time of my site inspection it did not appear to be in active use. Nevertheless, that property was closer to Westgate and its side elevation, including signage on that side, was visible from Westgate. Whereas the appeal property has much less visibility from Westgate and is seen mainly from Daisy Hill and Union Street, as such I would not regard it to provide a significant visual link to busier parts of Dewsbury Town Centre. It also sits alongside a property that the council say is in residential use, no.45, which also dilutes the appeal site’s contribution to any form of active frontage. Notwithstanding the presence of some retail uses on Daisy Hill, given the range of uses nearby and the separation to the primary shopping area, its vacant condition and my own site observations, it indicates to me the appeal site is not in the middle of an active shop frontage. Moreover, it appeared to be very much in a peripheral location compared to the main retail areas of the town centre.
7. Given its location and range of other uses nearby, I was not convinced, particularly considering its limited scale, that its loss would have any significant harm upon the vitality and viability of Dewsbury Town Centre as a whole. Moreover, it is likely that its loss would be very minor due to its location, scale, and current vacant condition, and that its proposed use would be consistent with other residential uses in the immediate area, including at ground floor level. The appellant has said the appeal property has been marketed, which were corroborated by my own site observations, and that there is no demand for the vacant retail unit, I have no evidence to indicate otherwise.
8. The Council have said that allowing the appeal would set a precedent for other such changes of use that could cumulatively affect the town centre. However, proposals should be assessed on their individual merits. Other than the current appeal for a similar proposed change of use nearby at 42 Daisy Hill, which is the subject of a separate decision, I am not aware of any other similar proposed changes of use. In view of the particular location of the appeal site, the range of different uses nearby, including residential within the adjoining property, and the support offered by part of the development plan for residential uses in the town centre, I am not persuaded that in the event the appeal were to be allowed, that this would set an undesirable or harmful precedent in the town centre.
9. It was evident from my site inspection that the appeal site is currently being marketed to try and find an occupier. However, The KLP policies referred to by the Council do not specifically require marketing or justification for the proposed change of use to be provided, or for there to be an assessment of its impact on the vitality or viability of the town centre.

10. The proposed change of use to a residential flat would be supported in principle by KLP Policy LP18, and by the supporting text to KLP Policies LP13 and LP15. I am also not convinced that the loss of the vacant retail unit would harm the vitality or viability of Dewsbury Town Centre. Nevertheless, the loss of the retail use would conflict with part of KLP Policy LP15 which requires the protection and retention of existing ground floor uses within town centres, that are also both within and outside the primary shopping area.

Living conditions – future occupiers

11. Kirklees' Housebuilders Design Guide SPD, dated June 2021 (SPD), sets out what the Council considers to be good residential design. Principle 6 says Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking, similarly principle 16 requires a high standard of amenity for future occupiers.
12. The proposed one-bedroom flat would have a door and window facing onto Daisy Hill serving its shared living and bedroom space, it would also have a window to the rear side serving a proposed kitchen that would look directly towards the rear of the adjoining property in an enclosed area. On the opposite side of the road is 34-36 Daisy Hill, a two-storey property containing a shop and glazed opening at ground floor level, it is said to be some 8-8.5 metres at its closest to the appeal property.
13. Notwithstanding the gap between it and no. 34-36, the presence of the building opposite would significantly impede the outlook from the proposed flat's only outward looking window on its front side, giving a very poor and harmful outlook for future occupiers, mainly restricted to views of surrounding buildings in an enclosed setting. Given its ground floor location within the town centre, it is also accepted that future occupiers may choose to use blinds or other privacy measures, which would likely add to the poor outlook from its shared living space.
14. The proposed new window facing onto Daisy Hill would be large, but no daylight assessment has been provided to demonstrate future occupiers would receive adequate light to the proposed accommodation. Due to the layout of the main shared room said to be some 11 metres in depth, the bedspace would be farthest from the window and would likely receive very little natural light, and as a result there would be harmful effects for the living conditions of its future occupiers. Whilst it would have a window serving a kitchen to the rear, this would also be towards the rear sides of other buildings and would not off-set the poor level of light and outlook for the main living area. Nor would its size being in excess of the minimum size required by the Technical Housing Standards – Nationally Described Space Standard (March 2015) fully justify its poor level of light and outlook for future occupiers. Whilst the appellant has indicated that they are willing to amend the layout, no amendments have been provided.
15. The pavement on this side of Daisy Hill had parking bollards along it, and it was much narrower than the pavement on the opposite side of the road. I saw that Daisy Hill was used by pedestrians, and although only a snapshot in time, I did not observe that it was particularly busy, perhaps reflecting its distance from the main commercial areas of the town centre. Although it is acknowledged that pedestrians could directly pass in front of the proposed new window on the appeal property and the window would be level with most head heights, which could, depending on

whether the window had blinds or curtains, affect the privacy for future occupiers of the proposed flat. Nevertheless, this would likely be for a very short duration, and those passing by would likely be facing away from the window in question as they walked or cycled passed it.

16. The display window on the property opposite would aim to attract the attention of those passing by to look into the shop, which would be away from the appeal property. Views from within the shop, would most likely be towards items for sale, as opposed to any sustained and purposeful viewing towards the proposed front window in the appeal property. In view of this, and my site observations, I did not find that the proposed development would give rise to unacceptable privacy impacts for future occupiers.
17. I therefore conclude that although I find the proposed development would provide future occupiers with satisfactory living conditions in terms of privacy, there would be harm in terms of natural light and outlook for future occupiers of the proposed flat from the elevation facing Daisy Hill. As such there would be conflict with KLP Policies LP15 and LP24 that requires development, to provide a high standard of amenity for future occupiers. There would also be conflict with Principle 6 and 16 of the SPD, which collectively require a high standard of amenity.

Other Matters

18. The appeal site is located within the Dewsbury Town Centre Conservation Area (the CA), which includes a variety of buildings, architecture and spaces. Daisy Hill comprises a narrow and curved road and climbs away from Westgate and has terraced properties to both of its sides and includes a mixture of different uses. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In this case, the removal of the modern shopfront and its replacement with a simple window reflective of the design of the window above it and the adjoining property (no.45), together with its residential use would not be harmful to the character or appearance of the area. I therefore find that the proposed development would have a neutral effect upon the CA, ensuring it would be preserved, consistent with the duty within the Act.
19. The appeal site also adjoins no. 41 Daisy Hill, a grade ii listed building, as such the duty within Section 66 of the Act applies in respect of the desirability of preserving the listed building and its setting. No. 41 is a three-storey building with a shop frontage at ground floor facing onto Daisy Hill. It is constructed in buff sandstone and red brick, with a timber shopfront, and slate roof. It is listed due to its architectural interest and said to be a good example of speculative commercial architecture on a small scale for its time, with good detailing to its frontage and interior. In this case, the alterations to the front of the appeal property along with its residential use, due to their limited scale and sympathetic appearance would have a neutral effect upon the setting of no. 41.

Planning Balance and Conclusion

20. There would be conflict with Policies LP15, and LP24 of the KLP, and the SPD. The Council have said its 2023 update of its five-year housing land supply position shows 3.96 years supply of housing land and in accordance with footnote 8 of

paragraph 11 of the National Planning Policy Framework (the Framework), the presumption in favour of sustainable development applies.

21. With there being no identified conflict with policies of the Framework referred to in footnote 7 of paragraph 11, paragraph 11 d) ii is engaged, which states planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
22. The benefits of the proposal include the provision of one additional small unit of accommodation that would contribute towards boosting Kirklees' overall supply of housing, in a sustainable and accessible location, which would make an effective use of this previously developed site and support the development of an under-utilised building. There would also be economic benefits arising from the conversion works for the proposed development. However, in view of the scale of the proposed development, these benefits even when taken together attract limited weight.
23. Against this, would be the harm to the living conditions of future occupiers due to the proposed layout resulting in a lack of light and outlook for its main living space, as a result a high standard of amenity for existing and future users would not be achieved in direct conflict with paragraph 135 of the Framework. Paragraph 131 of the Framework also states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Furthermore, it states that good design is a key aspect of sustainable development, to create better places in which to live and work and helps make development acceptable to communities, and at paragraph 139 it says development that is not well designed should be refused. The design of the internal layout of the proposed development would, for the reasons outlined above, conflict with these policies of the Framework and would not provide a well-designed place as a result of its harm to the living conditions of future occupiers. The loss of the ground floor retail use within Dewsbury Town Centre would also be inconsistent with the frameworks objective for town centres to be the heart of local communities, and for a positive approach to their growth, management and adaptation. I give this harm, particularly relating to the poor living conditions for future occupier's, significant weight.
24. Accordingly, when assessed against the policies in the Framework taken as a whole, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
25. To conclude, the proposed development conflicts with the requirements of the development plan when taken as a whole, and there are no other considerations, including the Framework and those raised by the appellant, that outweigh this conflict. For the reasons outlined above the appeal should be dismissed.

A Hunter

INSPECTOR