

**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:	2025/62/90521/W
Site Address:	Old Red Lion, 5, Market Place, Marsden, Huddersfield, HD7 6BY
Description:	Change of use from retail unit to flat (within a Conservation Area)
Recommending Officer:	Molly Storer

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.

John Holmes

AUTHORISED OFFICER

Date: 18th June 2025

The Site

The application site refers to a unit on the ground floor of the former Old Red Lion Pub at 5 Market place located in Marsden. Aerial and street photos suggest that the use of the building as a pub ceased over 17 years ago and the upper floors of the building have since been converted into flats. Part of the ground floor of the building also has a residential use with the remaining currently being used as a retail unit.

The site is located close to Marsden District centre and is situated within a mixed use area with surrounding development consisting of residential, retail and commercial uses.

The Proposal

The applicant is seeking planning permission for change of use from retail unit to flat (within a Conservation Area).

There are no external changes to the exterior of the building. The internal works will remove internal walls to create an open plan lounge and kitchen area. There will also be a bedroom and bathroom.

The dwelling would be a one bedroom property with a floorspace of 53m²

It is noted that upon the submitted plans are floor plans for the whole of the ground floor. This application relates to just the part of the ground floor of the building which falls within the red line boundary upon the submitted plan titled 'Location Plan' (reference LOC).

Planning History

None

History of Negotiations

Following discussions with Highways officers it was recommended that a plan be submitted to show where bin storage would be located. The agent provided these plans.

Publicity & Representations

The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management

Charter. As such, this application has been publicised via site notice and newspaper advert.

Final publicity date expired 27th April 2025. No representations were made as a result of publicity.

Consultations

K.C. Conservation and Design – no objection.

K.C. Development Management Highways – no objection.

Allocation & Policies

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 within the Conservation Area, and an area with a known presence of bats.

Local guidance and policy is provided by the Kirklees Local Plan (adopted February 2019) as such the following policy, guidance and legislation is considered relevant to the determination of this application:-

Kirklees Local Plan (LP)

- LP1 Achieving Sustainable Development
- LP2 Place Shaping
- LP7 Efficient use of land
- LP11 Housing mix and affordable housing
- LP21 Highway Safety
- LP22 Parking Provision
- LP24 Design
- LP30 Biodiversity
- LP35 Historic Environment
- LP51 Air Quality

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 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. Considered to be of relevance to the consideration of this application are policies within the following chapters:

-

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a Sufficient Supply of Homes.
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 16 – Conserving and enhancing the historic environment

Legislation

The Town & Country Planning Act 1990 (as amended).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The Conservation of Habitats and Species Regulations 2017

Assessment

The following matters are considered in the assessment below –

1. Principle of development
2. Impact on visual amenity and heritage
3. Impact upon residential amenity
4. Impact upon highway safety
5. Other matters
6. Representations
7. Conclusion

1 – Principle of development:

Policy LP1 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 National Planning Policy Framework. LP1 goes on further to stating that:

The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”. Policy LP7 looks for an efficient use of land.

The proposal would result in a further unit of housing in the district. 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 officers assessment.

Policy LP3 of the Local Plan is also of relevance in this instance as it requires development to deliver homes in a sustainable way.

Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35

dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved.

Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. The application proposes 1 additional dwelling of a density which would meet this requirement. Policy LP11 of the Kirklees Local Plan sets out a requirement for suitable housing mix and affordable homes, the application relates to a single additional dwelling adding to the housing mix in the locality.

Although the development would result in the loss of a potentially employment generating use it is noted that the premises are currently vacant. It is also noted that the site falls outside Marsden District Centre on the Kirklees Local Plan therefore retail uses on the ground floor of this location do not take precedence. A higher density of development is not considered to be required in this case given the high density the site would achieve, and having regard to the characteristics of the surroundings, access arrangements and waste storage arrangements.

Therefore, in this case, the principle of development is considered acceptable, subject to the assessment of impacts on visual and residential amenity and highway safety and all other relevant considerations.

2 – Impact on visual amenity and heritage

Policy LP24 (Design) of the Council's adopted Local Plan sets out that proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape. Paragraph 135 of the NPPF is also of relevance to the consideration of this application.

Section 72 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas. This is echoed within policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

Paragraph 212 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset the Local Planning Authority should give great weight to the heritage asset's conservation irrespective of the level of harm.

The proposal is for a change of use with no external alterations. Given that there are no physical alterations to the building the proposal will have little impact on the visual amenity of the property.

As the site is within a Conservation Area, the impact of the development will need also to be assessed against national policy in Chapter 16 of the NPPF and the general duty in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It is concluded that as there are no external alterations to the building, the property not being listed and with it being located over 30m away from the closest listed building the change of use to a dwelling will not negatively impact the setting of the Conservation Area or any listed building. The proposal is therefore considered acceptable from a conservation perspective as it is concluded it would not lead to harm within in the Conservation Area. K.C. Conservation and Design were informally consulted on this application and raised no objection to the proposal.

It is therefore considered that in terms of visual amenity and heritage, the proposed would comply with Policies LP24 and LP35 of the Kirklees Local Plan, and policies within Chapters 12 and 16 of the National Planning Policy Framework.

3 – Impact on residential amenity:

A core planning principle as set out by policies within Chapter 12 of the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of Policy LP24 of the Kirklees Local Plan. Principle 6 of the House Builders 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.

Principle 17 of the Council's adopted House Builders Design Guide Supplementary Planning Document (SPD) requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accords with the 'Nationally Described Space Standards' (NDSS) document (March 2015).

The conversion of this former building to a dwelling would have little impact on neighbours with regards overshadowing, overbearing or overlooking given that no external structures would be built.

It is considered that the building would provide an acceptable amount of internal living accommodation (approximately 54m² over a single floor) which meets the standard within the NDSS for a 1 or 2 person, 1 bedroom dwelling. The proposal is considered to meet the requirements of principle 16.

In terms of external amenity space, there would be no private amenity space however the town centre location of the site is such that this is expected to be the case for some properties in this locality and refusal on such a basis could not be substantiated in this case, particularly as public open space is in a reasonable proximity to the site. The proposal is therefore considered acceptable in this regard, in accordance with principle 17.

It is therefore considered that the proposal accords with policies LP1, LP2 & LP24 of the Kirklees Local Plan as it is considered the proposal would not result in significant harm upon the residential amenity of nearby residents, as well as chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan and policies within chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide seeks to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

It is noted that there is no off-street parking associated with this property however in this instance the property is located in the centre of Marsden adjacent to the defined district centre in a sustainable location with both bus stops and the train station only a short walk away. In addition, the proposed works would not alter the existing access to and from the property, in conjunction with the adjoining highway. K.C. Highways were consulted on this application and stated that they had no objections due to the central and sustainable location of the site. In following discussions highways officers requested plans to show bin storage. The agent provided plans to show this would be in the same location as existing.

Taking account of the existing use which can take place in any event, and the scale of the proposal, it is considered the proposal has an acceptable impact in terms of access and highway safety and it is therefore considered that in terms of access and highway safety / parking the proposal would comply with Policies LP21 and LP22 of the Kirklees Local Plan, principle 15 of the Council's Street Design Guide and chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Ecology -

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. Whilst it is acknowledged that the site is located within an identified bat alert area, the proposals are relatively modest, and therefore considered unlikely that the proposals would have an impact on the bat population. An informative would be provided however, making the applicant aware that if bats are discovered on site during the works, any development shall cease and the applicant is advised to contact Natural England for advice on how to move forward.

Climate Change -

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 pre-dates 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.

6 – Representations:

None received

7 – Conclusion:

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 would constitute sustainable development, resulting in an additional unit of housing at a time of local and national shortage. It is therefore recommended for approval.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2025/90521

Officer Recommendation: Approve

Conditions

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 (as amended).

2. 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 accord with Policies LP1, LP7, LP2, LP21, LP22, LP24, LP30, LP35, LP51 of the Kirklees Local Plan, principles within the Housebuilders Design Guide and policies within Chapters 2, 5, 9, 12, 14 and 16 of the National Planning Policy Framework

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	2941 - LOC	-	26/02/2025
Existing and Proposed Floor Plan	2941_ACU (100) 01B	-	10/03/2025
Planning statement	-	-	26/02/2025
Climate change statement	-	-	26/02/2025
Application form	-	-	26/02/2025

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 Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2025 and otherwise actively engaged with the applicant in dealing with the application.

Report Dated:

11th June 2025