
Report of the Head of Strategic Investment**HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 04-Jan-2018****Subject: Planning Application 2016/91560 Alterations to convert lower ground floor to two flats (Listed Building within a Conservation Area) 33-35, Queensgate, Huddersfield, HD1 2RD****APPLICANT**Mr Mohammad Sajjid, MS
Investment**DATE VALID**

14-Jun-2016

TARGET DATE

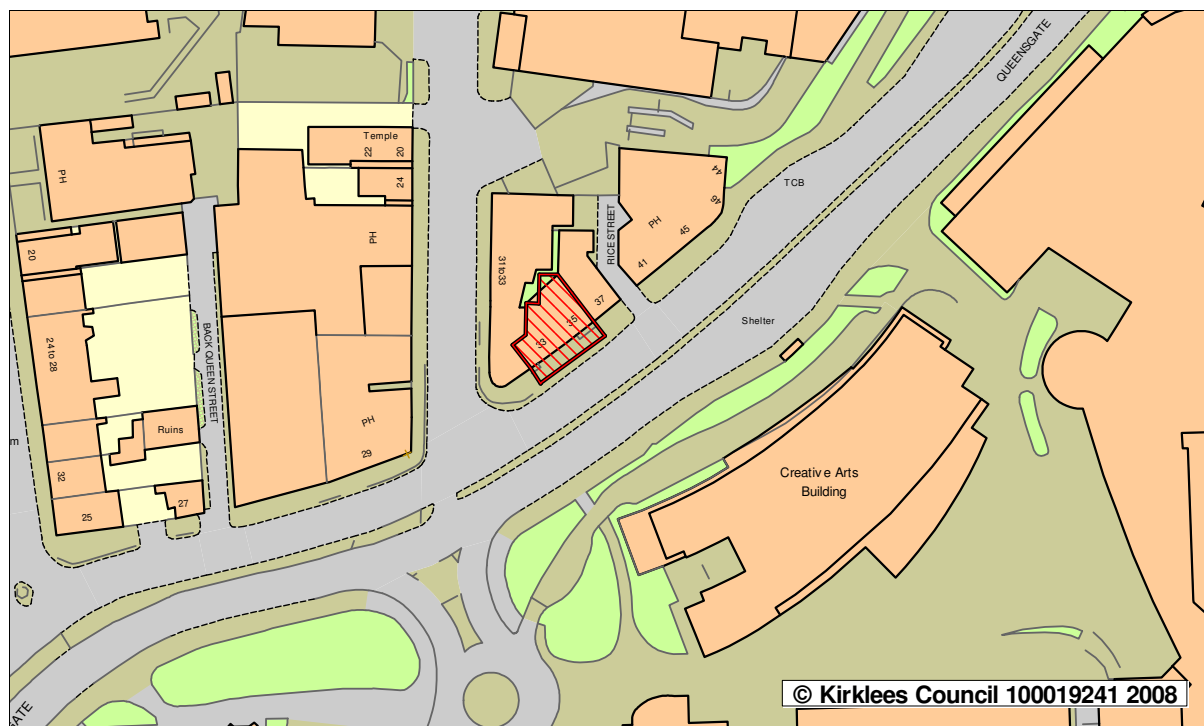
09-Aug-2016

EXTENSION EXPIRY DATE

21-Apr-2017

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<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Newsome

No

Ward Members consulted

RECOMMENDATION: REFUSE

The flats would be served by windows predominantly below pavement level providing inadequate outlook towards retaining walls and limited access to natural light. In addition the impact from external activity in connection with the adjacent businesses, as well as unacceptable levels of noise and air pollution from the adjacent ring road would further compromise the amenities of the future residents. The proposals as such would result in a poor level of amenity for future occupants and fail to comply with the requirements of Policies D2 (v), BE1(iv), BE12, EP4 of the UDP, conflict with the paragraphs 17 (4th bullet point), 120 and 124 the National Planning Policy Framework and with Policies PLP24(b), PLP 51(3) and PLP52 of the Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 The application is brought to Committee at the request of Ward Councillor Andrew Cooper who states:

“I understand you have turned it down on grounds of lack of natural light. I’ve had a look at photos of the flats and while they are subterranean there is natural light provided by windows.

As this is definitely for student accommodation and not families or young children it will be suitable for short term letting.

Other examples exist around the Town Centre of similar accommodation.”

- 1.2 The chair of the committee has confirmed that Cllr Cooper’s reason is valid having regard to the Councillors’ Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to the basement level of nos. 33 -35 Queensgate and a small area to the front of the building which provides access from an external staircase to the basement directly from the pavement above. The ground floor was in use for offices and a takeaway (panini shop) at the time of the case officer’s site visit. The site lies opposite the Queensgate campus of Huddersfield University, with the ring road separating the two sites. The basement accommodates two windows which are mainly set below pavement level.

- 2.2 The property is a Grade II listed building within the Huddersfield Town Centre Conservation Area.

3.0 PROPOSAL:

- 3.1 The application seeks permission for the conversion of the basement to two open plan residential flats. These would be accessed by the existing external staircase to the front of the building and set below pavement level. Flat no. 1 would be below the existing office use at ground floor level. One opening would serve this flat, the majority of which is set below ground level. Flat no. 2 would be directly below the takeaway use and would be served by the window opening adjacent to the staircase.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2017/91351 – change of use of basement from office to café – granted June 2017 and implemented. No allied application for listed building consent for works to the building has been submitted or approved.

2016/91561 – listed building consent to convert lower ground floor to two flats, allied application to the application reported to sub-committee: undetermined.

2015/91493 - erection of rear extensions to form additional student accommodation at first and second floor level, alterations to the front elevation of the takeaway unit, which would consist of lowering the cill height of the window – granted February 2016. Alterations to front carried out.

2015/91491 – listed building consent for rear extensions at first and second floor level, alterations to the front elevation of the takeaway unit, which would consist of lowering the cill height of the window – granted

2011/92996 - alterations to cellar and new access, formation of new doorway and internal alterations – granted Sept 2012

2011/92997 - listed building consent for alterations to cellar and new access, formation of new doorway and internal alterations.

2009/91946 – conversion of ground floor into 2 separate units and associated external alterations comprising of the installation of new door and window openings - granted Dec 2009

2009/91947 – LB consent for conversion of ground floor into 2 separate units and associated external alterations comprising of the installation of new door and window openings - granted Dec 2009

Enforcement History

EN950 – Listed Building Enforcement notice served in respect of a timber shelter and staircase erected above the flat roof section to the rear of the building in 2012. . A subsequent appeal was dismissed and the listed building enforcement notice upheld. A period of three months was given by the Inspector to remedy the contravention, to remove the timber frame and staircase and restore the building to its previous condition.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 14th June 2016 - The applicant submitted acoustic, air quality and odour reports. These were not requested by Officers as the applicant had been advised, given officers concerns in relation to amenity of future residents, the proposals could not be supported.

22nd December 2016 – agent advised concerns raised by Env. Health following assessment of additional information submitted, which was not satisfactory.

24th February 2017 – applicant advised concerns remain despite a site meeting with Cllr Naheed Mather to inspect the basement internally.

17th March 2017 – applicant requested decision on application be delayed to allow applicant to approach a ward Councillor for a committee decision.

20th March 2017 – Officers request for accurate existing floor plans

24th March 2017 – Cllr Andrew Cooper requested the application be determined by sub-committee.

7th April 2017 – receipt of accurate existing floor plans.

19th June 2017- confirmation of new agent

6.0 PLANNING POLICY:

- 6.1 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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is within the Huddersfield Town Centre Conservation Area and this is a Grade II listed building. The following Policies are of relevance when considering the proposed development.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 - residential & visual amenity
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about dwellings
BE5 – Preservation/enhancement of conservation areas.
EP4 – Noise sensitive development

6.3 National Planning Guidance:

4th Core Planning Principles of the NPPF
Ensuring vitality of town centres (Section 2)
Delivering a wide choice of high quality homes (Section 6)
Conserving and enhancing the natural environment (Section 11)
Conserving and enhancing the historic environment (Section 12)

6.4 Kirklees Publication Draft Local Plan (PDLP):

PLP 24 – Design
PLP35 – Development in conservation areas
PLP51 – protection and improvement of local air quality
PLP52 – protection and improvement of environmental quality (noise including traffic noise)

Other relevant guidance:

West Yorkshire Low Emission Strategy (WYLES)
Kirklees Council Local Air Quality Plan.

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 Final publicity date Expired 12th July 2016. No representations received.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

K.C. Conservation and Design officer raises no objections on the allied listed building application subject to the internal staircase being retained.

8.2 **Non-statutory:**

K.C Environmental Health – cannot support the application raising concerns regarding noise, air quality and ventilation.

9.0 **MAIN ISSUES**

- Principle of development
- Impact on visual amenity including designated heritage assets
- Impact on amenity of future residents
- Impact on highway safety
- Other matters (bin storage and coal mining legacy)
- Representations
- Conclusion

10.0 APPRAISAL

Principle of development:

- 10.1 The site is a Grade II listed building within the Huddersfield Town Centre Conservation Area. Sections 66 and 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Areas and to preserving the setting of a listed building or any features of special architectural or historic interest which it possesses. This is mirrored in Policy BE5 of the Unitary Development Plan together with guidance in Chapter 12 of the National Planning Policy Framework and emerging PLP35 of the Publication Draft Local Plan.
- 10.2 The principle of providing two additional residential flats would normally be considered acceptable providing that: the resultant alterations do not have a detrimental impact on the setting of the host building and any special architectural interest it possesses; the Conservation Area; visual and residential amenity; highway safety and other relevant material considerations. The general principle of making alterations to a property are assessed against Policies BE1 and BE2 of the Unitary Development Plan, Policy PLP24 of the PDLP and advice within Chapter 7 of the National Planning Policy Framework regarding design.
- 10.3 Significant weight is given to the fact that the application would result in a further two units of accommodation being provided at a time of local and national shortage. Kirklees cannot currently demonstrate a 5-year supply of housing land and this site is within a sustainable location within close distance of the town centre and other amenities. Paragraph 51 of the NPPF states that LPAs should 'normally approve planning applications for change of use to residential...'
- 10.4 **Impact on visual amenity including the designated heritage assets:**
- 10.5 No external physical alterations are proposed. Both flats are shown to be served from the external staircase from the front of the building and to be served by the existing openings which are predominantly positioned below pavement level.
- 10.6 With regards to Policy BE5, as there are no external alterations proposed it would ensure the historic interest of this building and character of this part of the Conservation area is not compromised. Similarly as there are no external works proposed the setting of the listed building would be unaffected.
- 10.7 Turning to the internal alterations, following a site inspection it was clear the historic fabric/interests of the listed building have previously been stripped and there is little value in what remains due to alterations that have been carried out in the past. However, the submitted plans indicate the retention of the internal staircase and the small section of internal walls to be provided would be of stud construction, which is easily reversible. In view of this Officers are of the opinion the proposals would not detract from any remaining significance of this building at basement level nor detract from the character of this part of the Conservation Area, in accordance with Policy BE5 of the UDP, Policy

PLP35 of the Publication Draft Local Plan as well as guidance in the Listed Buildings & Conservation Areas Act (1990) and Chapter 12 of the National Planning Policy Framework.

10.8 Impact on amenity of future residents:

- 10.9 The assessment of amenity relates to the impact of the proposal on the future occupiers of the property, considered in relation to Policies D2, BE1 and BE12 of the UDP. Relevant Policies of the Publication Draft Local Plan are PLP51 and PLP52 as the proposals would result in a sensitive use (residential) adjacent to a ring road.
- 10.10 Also of relevance is the NPPF which advises in the fourth bullet point of the core planning principles that planning should “*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*”
- 10.11 In terms of outlook and natural light to the proposed flats, the main open plan living area of flat no. 1 would be served by a single, existing light well. This is approximately 0.5 metre in depth and the full width of the window with only the top opening section above pavement level. This light well was covered with a metal grille at the time of the site visit and sited below and adjacent to the platform/entrance of the adjoining premises.
- 10.12 With regards to flat No. 2 the only source of light and outlook to the main open plan living area will be from the single window adjacent to the external steps which would serve both flats. The depth of the steps is approximately 1m and the width extends the full length of the external staircase. At ground floor level, to the left hand side of the light well, is the entrance to the takeaway/panini hut and to the right hand side is a café. At the time of my site visit the adjoining café had an external seating area with tables and chairs in association with the café use on the pavement.
- 10.13 The light wells are small, with one covered by a metal grille, and would only allow limited light penetration into the flats and very little towards the rear of the living space. It is considered that the future occupiers of the flats would not have an appropriate level of outlook or a satisfactory level of daylight from the existing windows which are 0.5 metres deep and approximately 1m away from the retaining walls. This is significantly short of the 12 metres as advised in Policy BE12 for habitable room windows to blank walls for ‘new dwellings’.
- 10.14 The amenities of the future residents would be further compromised with the noise and activities associated to the ground floor uses, in particular to flat no. 2 which is in close proximity to the adjacent cafe and the area used for external activities in association with the café. Occupiers of flat no. 2 would be of more dis-advantage and would have minimal privacy as the only opening to serve this flat is sited on the wall of the external staircase, which would be utilised by future residents and visitors to the flats as the only entrance and exit point.

- 10.15 As well as the adjacent commercial activities, it is also acknowledged that traffic noise and poor air quality from the adjacent four lane ring road would be a further contributory factor which would cause harm to the amenities of the future residents of the proposed apartments. Furthermore the whole town centre of Huddersfield was declared as an Air Quality Management Area (AQMA) in November this year.
- 10.16 Policy EP4 of the UDP relates to noise sensitive development. National guidance in the NPPF, paragraphs 123 and 124 relates to pollution, including air quality and is relevant when assessing the proposals in this location in close proximity to the Town Centre Ring road. Emerging Policy PLP51 of the PDLP states that the introduction of new receptors into AQMA will not be permitted where 'sustainable mitigation measures cannot be introduced which prevent receptors from being exposed to unsafe levels of air pollution'. PLP52 states that development will not be permitted where environmentally sensitive development would be subject to significant levels of pollution (including noise and vibration) and no 'sustainable' mitigation measures can be introduced to protect the quality of life and well-being of people.
- 10.17 In light of the recent declaration of an AQMA and the Local Air Quality Management Plan, Environmental Health colleagues have reassessed the proposed development and provided the following comments:

"This application seeks to place residential accommodation in a primarily commercial district, within an area of known poor air quality (now a declared Air Quality Management Area – AQMA) and high noise (and likely vibration) levels from the adjacent 4 lane road and the commercial activities immediately above.

This is not a suitable location to recommend approval of residential accommodation as it will be too difficult to ensure that the future residents have as quiet an environment as possible with clean odour free air in which to live, and approval would be contrary to guidance/policies.

Having reviewed this application and the accompanying documentation/reports, I am not satisfied with the information presented and based on this I cannot support the granting of this consent. I outline my reasons for this below:

Noise:

The Spire Environmental Report (03-May 2016) does not contain sufficient information in order to assess the noise environment future residents will be exposed to. It concentrates mainly on noise at the back of the building (and appears to have been produced to support a previous and different application). No measurements have been taken at the Queensgate side of the building, which is the side where the future residents will have their windows and door. Without measurements at this façade, it is only a guess as to what is suitable glazing/insulation design. Another concern with this report is that it makes no reference to the commercial uses immediately above the proposed flats. These are currently office (A1) and hot food takeaway (A5) use. No assessment has been made of the actual/likely noise from these (through the party floor/ceiling), or of the party floor itself.

Air Quality/Ventilation

In November 2017 the whole town centre of Huddersfield was declared as an Air Quality Management Area (AQMA). This site is within that area and immediately adjacent to a primary emission source (Road Traffic on the 4 lane Ring Road).

Whilst it is possible that a carefully designed combined air filtration/ventilation system could provide clean fresh air, it would be contrary to the following guidance to allow residential development on this site:

*West Yorkshire Low Emission Strategy (WYLES)
Kirklees Council Local Air Quality Plan.*

To allow residential accommodation here would be contrary to paragraph 120 & 124 of the NPPF”.

- 10.18 To summarise, introducing a new receptor which will be exposed to identified unsafe levels of air pollution and noise would not be in the best interests of the future residents of these apartments who would have an unacceptable level of quality of life. This, together with the minimal level of outlook, would not represent good design and provide inadequate levels of amenity for any occupants of the future proposed basement flats.
- 10.19 Whilst the proposed flats would provide new dwelling units and would increase the supply of housing in line with the NPPF, this does not outweigh the harm and unacceptable levels from noise and air pollution that the future residents would be exposed to. The proposals as such would fail to comply with the requirements of Policies D2, BE1, BE12, EP4 of the UDP and fail to meet the fourth bullet point of the NPPFs Core Planning Principles, paragraphs 120 and 124 as well as Policies PLP24, PLP 51 and PLP52 of the Publication Draft Local Plan.
- 10.20 Members are asked to note that an application was received for the change of use of the basement to a café, following Officers concern on the current proposals. This was granted in June 2017. Officers were of the opinion the café use would not only bring back into use the basement but more importantly be more compatible with the existing ground floor uses and contribute to the viability of the Huddersfield Town Centre, in accordance with the three strands of sustainable development as set out in the NPPF. The café use has since been implemented. It is also noted that works to the external fabric of the building (cladding) has also been carried out which did not form part of the application for the change of use to a café and that no listed building consent application for such works has been received.
- 10.21 **Highway issues:**
No parking provision is required due to the site's town centre location which is well served by public transport and within easy walking distance of both bus and train stations.

10.22 Representations:

No public representation was received but the application is brought to committee at the request of Ward Cllr Cooper for the following reason:

"I understand you have turned it down on grounds of lack of natural light. I've had a look at photos of the flats and while they are subterranean there is natural light provided by windows. As this is definitely for student accommodation and not families or young children it will be suitable for short term letting. Other examples exist around the Town Centre of similar accommodation."

A comprehensive assessment of the poor standard of amenity any future occupiers of the proposed flats would endure is set out in paragraphs 10.8-10.20 of the appraisal. For those reasons, and as set out in the recommendation, the development cannot be supported.

10.23 Other Matters (bin storage):

10.24 The submitted plans do not include the provision of bin storage. Nevertheless, during the case officers site visit it was evident an adequate area at the bottom of the external steps could be allocated to store bins for both flats, should the proposals be supported.

10.25 Coal mining legacy:

The application site falls within the defined Development High Risk Area. The Coal Authority's general approach in such cases is to require the applicant to submit a Coal Mining Risk Assessment to address coal mining legacy as part of the development. However, certain types of development are exempt from this, including changes of use where no ground works are proposed. The nature of the proposals would not include any ground works and as such in this instance exempt from providing a Coal Mining Risk Assessment.

10.26 CONCLUSION:

10.27 The proposal would not represent good design and would result in a poor standard of amenity for any future occupiers of the flats whether these be for students or open market flats and fail to comply with Policies D2, BE1, BE12 and EP4 of the Kirklees UDP and DPLP Policies PLP24, PLP50 and PLP51 and guidance in the NPPF.

10.28 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.

10.29 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 consideration.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91560>

Certificate of Ownership –Certificate A signed 10th May 2016.