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**Report of the Head of Development and Master Planning**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 05-Sep-2019**

**Subject: Planning Application 2019/90056 Change of use of A1 (Retail) to Snooker lounge and games room D2 (Assembly and Leisure) (within a Conservation Area) Mina House, 47-51, Daisy Hill, Dewsbury, WF13 1LF**

**APPLICANT**

H Sekhon

**DATE VALID**

10-Jan-2019

**TARGET DATE**

07-Mar-2019

**EXTENSION EXPIRY DATE**

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

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

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Dewsbury East**

No

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**REFUSE**

**1. The proposed change of use to snooker and games room (D2), particularly due to the lack of a continuous management of the premises and its immediate surroundings, would result in an increase in the fear of crime and disorder for the local community. The increased fear of crime and disorder would outweigh the benefit of the re-use of the unit, and fail to create an inclusive and safe place, significantly undermining the quality of life of the local community. To approve the application would be contrary to the aims of Chapter 8 of the National Planning Policy Framework, as well as Policy LP18 of the Kirklees Local Plan which sets out that proposals in Dewsbury Town Centre should, amongst other things, provide a safe welcoming inclusive destination for the district's residents of all ages, and Policy LP24 (e) of the Kirklees Local Plan.**

**1.0 INTRODUCTION:**

- 1.1 This application is reported to the Heavy Woollen Planning Committee as the application has been requested by Ward Councillor's Lukic and Scott due to the sensitive nature of the application.
- 1.2 The Chair of Sub-Committee has confirmed that Cllr Lukic and Scott's reason for making this request are valid having regard to the Councillor's Protocol for Planning Committees.

**SITE AND SURROUNDINGS:**

- 2.1 The application site is a three storey building, nos.47-51 Daisy Hill within the centre of Dewsbury. It is also within the designated Dewsbury Conservation Area. The flat roof building was previously used as office space within the first and second floors with a retail unit at ground floor. The first and second floors have recently gained prior approval for the change of use from office to 16 residential units.
- 2.2 The building is brick faced at first and second floor with window openings on the front and rear elevations. At ground floor there is a shop frontage with roller shutter.

2.3 Daisy Hill comprises a mixture of uses including residential, retail and office space. The application site has no designated parking and is accessed directly from Daisy Hill and School Street to the rear.

2.4 At the time of the site visit the proposed unit appeared to be vacant. However, subsequent recent reports have stated that the use as a snooker and games room has commenced unlawfully.

### **3.0 PROPOSAL:**

3.1 The application is for the change of use of the ground floor from retail (A1) to snooker and games room (D2). The site was vacant at the time of the original officer site visit and has a floor area of 579sqm.

3.2 The application site will have an open plan design with a 'meet and great' desk and seating at the entrance; 10 no. snooker/pool tables with seating and 3 no. enclosed games rooms. The mezzanine floor holds a private kitchen and seating area.

3.3 There are no external alterations proposed.

### **4.0 RELEVANT PLANNING HISTORY:**

4.1 2018/94207 External alterations and formation of larger window openings (within a Conservation Area)  
Conditional Full Permission

2018/94200 Prior notification from change of use from office (B1) to residential dwellings (within a Conservation Area)  
Approved

### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The Officer requested for a management plan to be submitted to demonstrate how the snooker and games room would be managed and what security measures would be used. The management plan was submitted and reviewed by the West Yorkshire Police Liaison Officer.

### **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is Unallocated within the Kirklees Local Plan but is within the designated Dewsbury Conservation Area.

## 6.2 Kirklees Local Plan (KLP)

**LP 1** – Sustainable Development

**LP18** – Dewsbury Town Centre

**LP 21** – Highway Safety and Access

**LP 22** – Parking

**LP 24** – Design

**LP35** – Historic Environment

**LP 51** - Protection and improvement of local air quality

**LP 52** – Protection and improvement of environmental quality

## 6.3 National Planning Policy Framework (NPPF):

**Chapter 8** – Promoting healthy and safe communities

**Chapter 12** – Achieving well-designed places

**Chapter 16** – Conserving and enhancing the historic environment

## 7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the statutory publicity, two representations were received following the period of public consultation. A summary of the comments received is set out below:

- The proposed use is inappropriate
- The proposed use will inevitably lead to those using the facility to congregate on the pavement outside to smoke creating a nuisance in terms of noise, litter and other associated issues to the other residents of Daisy Hill
- There are snooker tables in the unit and already people are congregating on the street outside at certain times
- Visitors congregate outside and this impacts on visitors to other premises

## 8.0 **CONSULTATION RESPONSES:**

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.2 **Statutory Consultees:**

**K.C Highways Development Management** – No Objection following receipt of additional drawing showing the provision of refuse and recycle bins to serve both the apartments and the proposed change of use.

**K.C Environmental Health** – No Objection subject to conditions to secure details of a noise impact assessment; details of a ventilation system and hours of operation.

### 8.3 **Non-Statutory Consultees:**

**K.C Conservation and Design** – No objection as the proposals do not include any external alterations to the building.

**West Yorkshire Police Liaison Officer** – Object to the application on the basis that the measures specified within the Management Plan are unlikely to deter the type of congregating and anti-social behaviour around the premises that would raise the fear of crime and tensions within the local community.

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### **Principle of development**

- 10.1 Policy LP1 of the KLP states that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise.
- 10.2 The application site is situated within the Dewsbury Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the asset. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.
- 10.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.
- 10.4 The application has no specific allocation within the KLP. As such, Policy LP24 of the KLP is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment.

### **Use of premises**

- 10.5 The proposed use as leisure and games room (D2) is listed within the NPPF glossary of terms as a main town centre use. As such a sequential test is not required because the application site is located within the Dewsbury Town Centre. Because of the Dewsbury Town Centre location, Policy LP18 of the KLP is also applicable.

- 10.6 Policy LP18 of the KLP sets out 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 town centre will form the focus for retail provision for the north of the district, supported by other main town centres. The policy continues by setting out that proposals within the town centre will be supported where they, amongst other things, “provide a safe welcoming inclusive destination for the district’s residents of all ages to visit throughout the day from morning into the evening”. This aim, along with other relevant material planning considerations shall be assessed below.

### **Fear of Crime and disorder**

- 10.7 In addition to policy LP18 of the KLP, as referred to above, Chapter 8 of the NPPF sets out the important role that the planning system plays in facilitating social interaction and creating healthy and inclusive communities. Paragraph 91 of the NPPF states that planning decisions should aim to achieve places which promote ‘safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion’. Policy LP24 of the KLP is also relevant in that it sets out under point ‘e’ that proposals should promote good design by ensuring “the risk of crime is minimised by enhanced security ... and well-designed security features”.
- 10.8 The Police Architectural Liaison Officer was consulted on behalf of West Yorkshire Police. As part of the consultation the local Dewsbury Policing team were consulted.
- 10.9 It is the considered view of the West Yorkshire Police that the approval of the snooker and games room in this location would be likely to increase in the serious anti-social behaviour, nuisance and criminality in the vicinity of the premises, as well as a rise in fear of crime and tensions within the local community.
- 10.10 The assessment is based upon the opinion that an approval would create a ‘honeypot’ (a place where people have an excuse to congregate and linger). Crime and anti-social behaviour are more likely to occur at a specific location if potential offenders have a ‘legitimate’ reason to meet there.
- 10.11 In light of the above concerns, the applicant’s agent submitted a management plan in support of the application. The management plan details the proposed management measures in terms of security, noise and disturbance. These measures include the installation of CCTV in order to increase security, a membership scheme and additional rules imposed to users to manage their behaviour.
- 10.12 The measures set out within the document have been reviewed by the Police Architectural Liaison Officer in consultation with West Yorkshire Police. In their view, the use of CCTV is not a universal solution to security problems and is most effective when it forms part of an overall security plan. In this instance, the West Yorkshire Police consider that the CCTV would need to be constantly monitored in order to provide a reaction and response to incidents at the time that they occur. There is no indication that it would be continuously monitored in this case. The management plan also details that the staff would be given training to deal with any events of antisocial behaviour, however, there are no details of who would be providing this training.

10.13 In summary, it is the view of officers, when taking into account the concerns raised by the West Yorkshire Policing Team, that the proposed change of use to a snooker and games room would be contrary to the aims of policies LP18 and LP24 (e) of the KLP as well as and the aims of Chapter 8 of the NPPF due to the increased fear of crime for local residents which would result in a decrease in the quality of life and social cohesion of the local community.

#### **Impact on visual amenity and heritage**

10.14 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that, amongst other things, the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by the NPPF which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character ....while not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).

10.15 The application site is situated within the Dewsbury Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the asset. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.

10.16 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.

10.17 There are no proposed external alterations proposed to the building. As such there is considered to be no impact on visual amenity or to the historic significance of the Conservation Area. As such, the application is considered to comply with Policies LP1, LP24 and LP35 of the KLP and guidance contained within Chapters 12 and 16 of the National Planning Policy Framework in regard to visual amenity and heritage considerations.

#### **Impact on residential amenity**

10.18 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the KLP states that proposals should promote good design by ensuring that they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

10.19 Generally, snooker is a relatively quiet sport, however due to the amount of tables, additional seating and private games rooms proposed, there is likely to be recorded music, large groups of people talking, balls hitting together and other noise emitted from the D2 use. As such, Environmental Health have recommended that a noise report is secured in order to restrict the impact of noise emitted from the unit which could disrupt neighbouring residential units.

- 10.20 The applicant does not specify the hours of operation for the proposed snooker and games room. As such, it is proposed by the Environmental Health Officer that the hours of operation should be restricted outside the hours of 07.30 to 23:30 Monday to Saturday and 08:00 to 22:30 on Sundays.
- 10.21 A condition is also recommended to secure a ventilation system in order to control the extraction/ventilation from the unit.
- 10.22 The closest neighbouring dwellings which could be impacted by the development are 45 Daisy Hill; 53 Daisy Hill; 38 – 42 Daisy Hill and 16 no. apartments recently approved on the first and second floor of Mina House (application 2018/94200). The proposed change of use could be considered to have an impact on the residential amenity of the residential units above, especially on the first floor due to the level of noise which would be created by a large congregation of people. However, the impact of noise would be minimised due to the hours of operation and the implementation of measures which would be specified within the noise report. As such, it is considered that the impact on the residential amenity of the residential units above can be controlled by the conditions recommended by Environmental Health.
- 10.23 45 Daisy Hill is a two storey building currently in use as a residential unit. The proposed change of use could be considered to have a minimal impact on the level of residential amenity of the occupiers due to the potential level of noise created by a large congregation of people. However, it is considered that the level of noise would be controlled by the recommend imposition of restricted hours of operation and the submission of a report which specifies measures to control and restrict the level of noise. As such, it is considered that the impact on the residential amenity of neighbouring dwelling would be controlled by the conditions recommended by Environmental Health.
- 10.24 53 Daisy Hill is a retail unit set to the West of the application site. The proposed development would not be considered to impact on the operation of this retail use.
- 10.25 38 – 42 Daisy Hill are a mixture of residential, office and retail units set to the North adjacent to the application site. There are no proposed alterations to the openings within the front elevation of the site, as such, there is considered to be no impact of overlooking to the residential units adjacent which are located at first floor. The proposed development would not be considered to impact on the operation of the retail uses.
- 10.26 In summary, due to the reasons outlined above and the recommended conditions there would be minimal harm caused to the residential amenity enjoyed by occupiers of neighbouring properties. As such, the application is considered to comply with Policies LP1, LP24 and LP52 of the KLP and guidance contained within Chapter 15 of the NPPF.

### **Highway Safety**

- 10.27 The application site is located on Daisy Hill within the centre of Dewsbury. The proposal is for the change of use of the ground floor to create a snooker and games room for which access will be provided from Daisy Hill. Daisy Hill operates a one-way system in addition to which there are waiting restrictions on either side of the road to prevent on-street parking.



- 10.28 It is proposed for a storage and waste collection area to be located on the lower ground floor of the unit with access from School Street to the rear.
- 10.29 The application offers no off-street parking provision. However, given the sustainable location of the site within a town centre this is considered to be acceptable.
- 10.30 In all, the proposal is not considered to materially add to any undue highway safety or efficiency implications and would accord with the aims of policy LP21 of the KLP.

### **Representations**

- 10.31 Two representations were received following the period of public consultation for the application. In so much as the points have not been addressed above, officers comment as follows:
- The proposed use is inappropriate  
**Officer Response:** The use is considered to constitute a main town centre use however, for the reasons set out in this report, there are concerns regarding crime and disorder should the use be permitted in this location.
  - The proposed use will inevitably lead to those using the facility to congregate on the pavement outside to smoke creating a nuisance in terms of noise, litter and other associated issues to the other residents of Daisy Hill  
**Officer Response:** Officers have raised concern regarding anti-social behaviour associated with the proposed use.
  - There are snooker tables in the unit and already people are congregating on the street outside at certain times.  
**Officer Response:** This is noted. At the time of the original site visit, the building was vacant however, it has since been brought to the attention of officers that the building is in operation.
  - Visitors congregate outside and this impacts on visiting clients to other premises  
**Officer Response:** Noted. As previously set out, officers are concerned regarding crime and disorder.

### **Other Matters**

- 10.32 *Economic benefits* – It is acknowledged by officers that the proposal would bring, what was previously a vacant building back into use. However, it is noted that the upper floors have been granted the use for residential purposes and this proposal would relate solely to bringing the ground floor into use. In this instance, it is the opinion of officers that the significant concerns regarding crime and disorder as set out in this assessment are not considered to be outweighed by the potential economic benefits of the proposed use.
- 10.33 There are no other matters considered relevant to the determination of this application.

## 11.0 CONCLUSION

- 11.1 To conclude, and taking all matters into consideration, although there are considered to be minimal concerns in regards to the impact of the proposed change of use on highway safety, visual and residential amenity, it is the view of officers that it has not been demonstrated that the proposal would not result in an increase in the fear of crime and anti-social behaviour at the premises, particularly due to the lack of continuous management of the premises. The resultant decrease in quality of life and social cohesion of the local community would outweigh the redevelopment of the unit and result in a use which would create not create a safe and accessible environment and significantly undermine the quality of life of the local community which is contrary to Chapter 8 of the NPPF.
- 11.2 This application has been assessed against the relevant policies in the development plan and other materials considerations. It is considered that the adverse impacts of granting permission would significantly outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. Recommendation is therefore to refuse the application.

### **Background Papers:**

#### ***Link to the application details:-***

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90056>

Certificate A signed and dated: 10/01/2019

#### ***2018/94207 - External alterations and formation of larger window openings (within a Conservation area) – Link to details:***

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f94207+>

#### ***2018/94200 - Prior notification from change of use from office (B1) to residential dwellings (within a Conservation Area) – Link to details:***

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f94200+>