
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Dec-2019

Subject: Planning Application 2019/90382 Change of use from motor cycle showroom and sales to mixed use Brookroyd Mills, 678, Bradford Road, Batley, WF17 8ND

APPLICANT

Jen Motor Cycle Centre

DATE VALID

18-Feb-2019

TARGET DATE

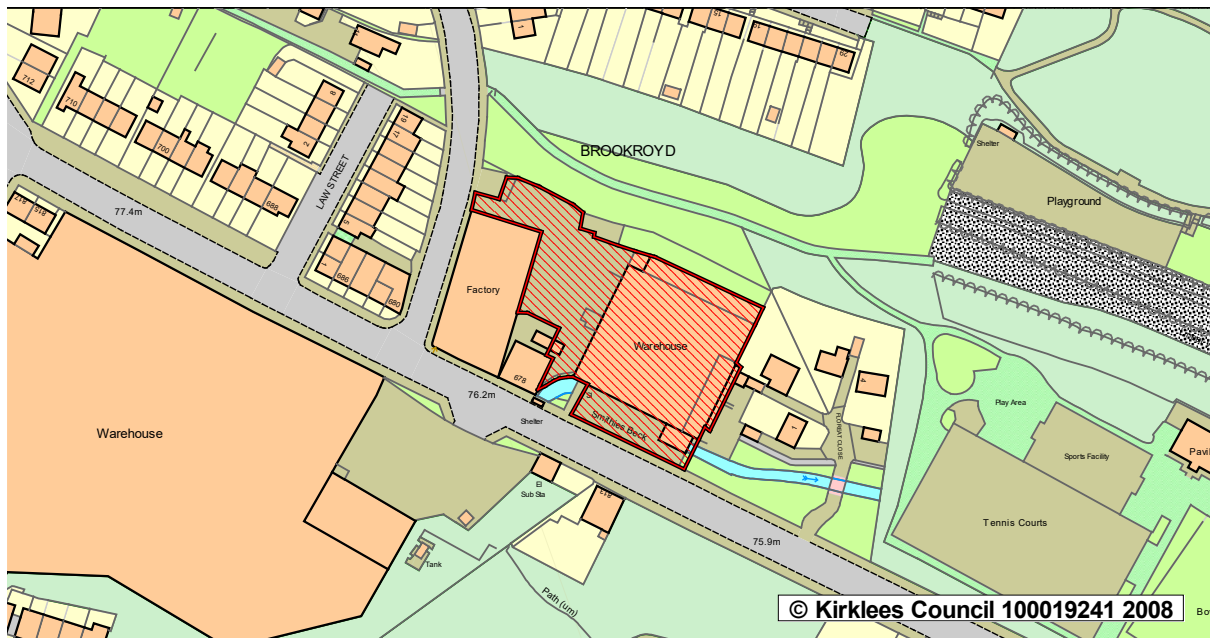
15-Apr-2019

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Batley East

No

Ward Members consulted

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Pandor. Councillor Pandor has concerns regarding the application on the highway safety grounds, stating that *'the committee needs to see first-hand that parking is a major issue in that cars are parked on the pavements on both sides.'*
- 1.2 The Chair of the Sub-Committee has confirmed that Cllr Pandor's reasons for referral to committee are valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to Jem's Speed Shop located on Bradford Road, Batley. The business operates over 2no floors with an upper level adjacent to Bradford Road and a lower level which can be accessed via the car park at a lower level. To the front of the building is an area of hardstanding which is used for parking and to the rear is a larger car park area which is accessed from Brookroyd Lane.
- 2.2 There are commercial properties to the north (rear) and western side of the building. To the east of the application site are the residential properties of Floreat Close.

3.0 PROPOSAL:

- 3.1 The site was granted planning permission in 2016 for use of the former warehouse as a motorcycle display area and ancillary café. The applicant contends that the business has evolved organically and this application seeks to regularise the development on the application site as well as increase the size of the restaurant space.

3.2 As such, this application is retrospective and relates to a change of use of the site to a mixed use development. The mixed use development is orientated around the display and sale of motorbikes but would contain a restaurant with bar on the upper level. The lower level would contain the majority of the motorbikes to be displayed as well as a coffee/sales area. Adjacent this area would be 5 units comprising of a craft beer bar, tattoo parlour, hairdresser, vintage shop and a general merchandise unit.

3.2 A parking layout plan has also been submitted.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2016/94040 – Change of use from warehouse to motor cycle display area and ancillary café – approved

2018/90710 – Change of use of motor cycle sales area to restaurant – withdrawn

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

5.1 A planning application was previously submitted for the formation of a restaurant on the site (2018/90710). However, after undertaking a site visit with enforcement officers it became clear that the use of the site went beyond solely motorbike sales and needed regularising. As such, that application was withdrawn and this application was submitted which seeks permission to regularise the current development on the site as well as expand the restaurant size.

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 27th February 2019).

The site is unallocated on the Kirklees Local Plan.

6.2 Kirklees Local Plan (2019):

The following policies are considered relevant:

- **LP 1** – Presumption in favour of sustainable development
- **LP 2** – Place shaping
- **LP 13** – Town centre uses
- **LP 16** – Food and drink uses and the evening economy
- **LP 21** – Highway safety and access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 27** – Flood risk
- **LP 52** – Protection and improvement of environmental quality

6.3 National Planning Policy Framework:

- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 7** – Ensuring the vitality of town centres
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment

6.4 Supplementary Planning Guidance:

- **Highways Design Guide** Supplementary Planning Document

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the publicity period, 4no representations have been received.

A summary of the comments received is set out below:

- Concern about opening hours and whether the restaurant element would operate as a separate element;
- Highway safety and parking including the submission of photographs;
- Concerns about signage to the front of the building and the fact that these relate to the diner as opposed to the bikes thus emphasising the predominance of the restaurant element;
- Concerns about the accuracy of the parking plan;
- Concern about the noise from the motorbikes;
- Concern about the proposed opening hours and noise.

7.2 Councillor Pandor and Councillor Yusra Hussain have been in contact during the course of the application and have raised concerns in relation to highway safety.

7.3 Councillor Pandor objects to the application on the highway safety grounds, stating that *'the committee needs to see first-hand that parking is a major issue in that cars are parked on the pavements on both sides.'*

8.0 **CONSULTATION RESPONSES:**

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

8.1 **Statutory:**

KC Highways Development Management: Amended plans were submitted during the course of the application which have been reviewed by KC Highways DM. No objection is raised subject to conditions.

8.2 **Non-statutory:**

KC Environmental Health: No objection subject to conditions in relation to hours of operation and details of the kitchen extraction system have been submitted.

KC Policy Planning: No objection based on the Sequential information submitted and the specific requirements of that business. This is subject to conditions.

9.0 MAIN ISSUES

- Principle of development
- Highways Issues
- Residential amenity
- Visual amenity
- Drainage issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site currently has planning permission to operate as a motorbike sales area, however, the business has developed organically and it is considered that the use of the site had gone beyond solely its consented use. As such, the application seeks to regularise the current mixed use as well as expanding the restaurant use.
- 10.2 The application site is unallocated on the Kirklees Local Plan (KLP). Policy LP13 of the KLP states that town centres and local centres should remain the focus for shopping, commercial, cultural and social activity. This notion is reinforced in Chapter 7 of the NPPF. These policies assert the aim of ensuring the vitality of town centres by applying a sequential test to planning applications for main town centre uses that are not in an existing centre and only if suitable sites are not available in town centre and edge of centre locations, should out of centre locations be considered. Due to the uses proposed, Policy LP16 of the KLP is also considered relevant which relates to food and drink uses and the evening economy.
- 10.3 A sequential assessment has been submitted during the course of this application which has been reviewed by KC Planning Policy Officers. It states that ‘the size of the outlet basically precludes any alternative site, especially since this site is fully owned by the applicant’ and ‘there are no similar sized units available within the Birstall or Batley Centres, similarly the use requires car parking and cycle parking on site to promote sales’.
- 10.4 Planning Practice Guidance states that land ownership does not provide a justification for particular market and locational requirements. However, KC Planning Policy states that vehicle showrooms generally require a large floor area to display goods. The Council is not aware of any units within or on the edge of Birstall District Centre, Batley and Dewsbury town centres that are available and that would be suitable for the proposal.
- 10.5 The applicant states that ‘the concept of the business will remain the same with motor cycle sales being the major business.’ The proposal also includes a restaurant and small individual retail units occupied by a craft beer bar, tattoo parlour, hairdresser and general merchandise all of which are main town centre uses but are part of the ‘visitor attraction’ complimenting the motor cycle sales business and adding to its viability.

- 10.6 KC Planning Policy advise that conditions are applied to restrict the uses and floorspace to those that have been applied for (and as shown on the submitted plans) in order to ensure that the vitality of town and local centres is protected. It is also recommended that the hairdressers and tattoo parlour are restricted to appointment only for the same reason. Subject to the aforementioned conditions, the application is considered to have an acceptable impact in relation to town centres and complies with the relevant local and national planning policy.

Highway issues

- 10.7 The application site is located off Bradford Road, Batley and the access to the car park is taken from Brookroyd Lane. The A652 Bradford Road is a 30mph two way single carriageway main distributor road with a hatched central reserve, footways on both sides and street lighting present. There are safety (speed) cameras to each side of the proposal site.
- 10.8 KC Highways DM comment that there are reported parking issues in the area along Bradford Road and 'Keep Clear' markings are installed to neighbouring Floreat Close. When the application was originally submitted, the main highway concern was the provision of a suitable level of parking for the proposals in order to maintain highway safety by avoiding inconsiderate on street parking. This has been indicated as a concern by local residents.
- 10.9 The amended drawing of proposed car/motorcycle parking was received during the course of the application and shows that 23 formal car parking spaces and 33 informal motorcycle parking spaces can be formed within the application site. The parking should also include a suitable number of mobility spaces (at 6% of the proposed car parking spaces) located near accessible doors. The marking of accessibility spaces may result in the slight reduction of available spaces. KC Highways DM request that the provision of these accessibility spaces should be conditioned. The applicant has stated that the gas storage tank adjacent to the premises is due to be removed at some time in the future and this will create additional parking.
- 10.10 The applicant has agreed to progress measures to manage parking on Bradford Road adjacent to the access with Floreat Close and the uncontrolled crossing to the east of the site. This will involve funding the TRO process. However, as this requires approval under a separate process, this element shall be conditioned (and a subsequent S106 Agreement when discharging the condition).
- 10.11 The applicant also indicated that parking management would be used for busy days. KC Highways DM require more detail of this; trigger points for the management, processes, responsibility of staff, signs, processes to deal with parking for events etc. This shall be provided in a brief Car Park Management Plan and shall be conditioned.
- 10.12 In summary, KC Highways DM consider that the proposal is acceptable in principle in relation to highway safety. Subject to the above conditions being applied, the application is considered acceptable in relation to highway safety and would be compliant with the aims of Policies LP21 and 22 of the KLP.

Residential Amenity

- 10.13 No physical works are proposed to the application site meaning that there are no associated additional impacts from the built form.
- 10.14 However, the impact on the occupants of the nearby neighbouring properties has been considered during the course of this application. KC Environmental Health has been consulted and raise no objections to the proposal in principle. However, they request a condition be imposed relating to the details of the ventilation system (including noise and odour control) to be submitted to the Council.
- 10.15 In relation to the times of operation, these have been reviewed by KC Environmental Health who request that a condition restricts openings hours of the motorcycle sales element to between 0830 -1700 Monday to Sunday and the restaurant use to 0830 – 2300 Monday to Sunday. Further restrictions in relation to deliveries and dispatches are also sought. This is necessary in order to protect the amenity of nearby neighbouring occupants and in accordance with the aims of Policies LP24 and LP52 of the Kirklees Local Plan as well as the guidance within the NPPF.

Visual Amenity issues

- 10.16 No external alterations are proposed to the application building in this application. As such, the application would have a neutral impact on visual amenity.

Flood Risk issues

- 10.17 The application lies within 20m of a river. Due to the location of the river, part of the site lies within Flood Zone 2. The Environment Agency were consulted on the previously withdrawn application and raised no objections, referring to their standard advice. Discussions have been held with the EA on this application who have confirmed that the current application would not alter their stance.
- 10.18 The application does not propose to alter the finished floor levels nor the entrance points to the building. The overall floorspace would also remain unchanged as a result of the application. Following discussions with the Lead Local Flood (LLFA) Authority, a condition is recommended to be imposed requiring the submission of a flood evacuation plan. As such, the proposed development is considered to have an acceptable level of impact in relation to flood risk and complies with the aims of Policy LP27 of the KLP and Chapter 14 of the NPPF.

Representations

- 10.19 A total of 4no representations have been received. These are set out below and responded to by officers as follows:
- Concern about opening hours and whether the restaurant element would operate as a separate element
Response: KC Environmental Health have recommended a condition in relation to the opening hours. The openings hour for the restaurant are proposed to be later than the sales area but this would still be operated as a part of Jem's Speed and not as a separate unit

- Highway safety and parking including the submission of photographs
Response: a detailed assessment in relation to highway safety is set out above.
- Concerns about signage to the front of the building and the fact that these relate to the diner as opposed to the bikes thus emphasising the predominance of the restaurant element
Response: Concerns in relation to the signage have been passed to KC Enforcement Officers to investigate. A condition restricts the amount of floorspace for the restaurant such that it cannot exceed that proposed under this application
- Concerns about the accuracy of the parking plan
Response: this has been reviewed by KC Highways Officers who are satisfied with the amended parking plan
- Concern about the noise from the motorbikes
Response: KC Environmental Health have reviewed the application and requested conditions
- Concern about the proposed opening hours and noise
Response: KC Environmental Health have reviewed the application and requested conditions

11.0 CONCLUSION

- 11.1 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.
- 11.2 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 and is therefore recommended for approval.

12.0 CONDITIONS (Summary list - Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. In accordance with plans
2. Restricting the additional uses and their floorspace
3. Restricting hairdressers and tattoo parlour to appointment only basis
4. Restricting the size of the restaurant
5. Provision of parking spaces (including accessible spaces)
6. Car parking management plan
7. Measures to manage parking
8. Kitchen extraction system
9. Hours of Delivery and Dispatch - no deliveries to or dispatches from the premises outside the hours of 0730 and 1800 Monday to Friday and 0800 and 1300 Saturdays.
10. Opening of motorcycle sales - 0830 to 1700 Monday to Sunday.
11. Opening of the restaurant/bar element – shall not be open to customers outside the hours of 0830 to 2300 Monday to Sunday
12. Submission of flood evacuation plan.

Background Papers:

Application website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90382>

Certificate of Ownership – Certificate A signed and dated 02/02/2019.

Link to previous approval (2016/94040) for the Change of use from warehouse to motor cycle display area and ancillary café

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f94040>