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

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 09-Jan-2020**

**Subject: Planning Application 2019/93266 Change of use from carpet showroom to nursery/out of school club 21-23a, Leeds Road, Liversedge, WF15 6JB**

**APPLICANT**

L Brown

**DATE VALID**

07-Oct-2019

**TARGET DATE**

02-Dec-2019

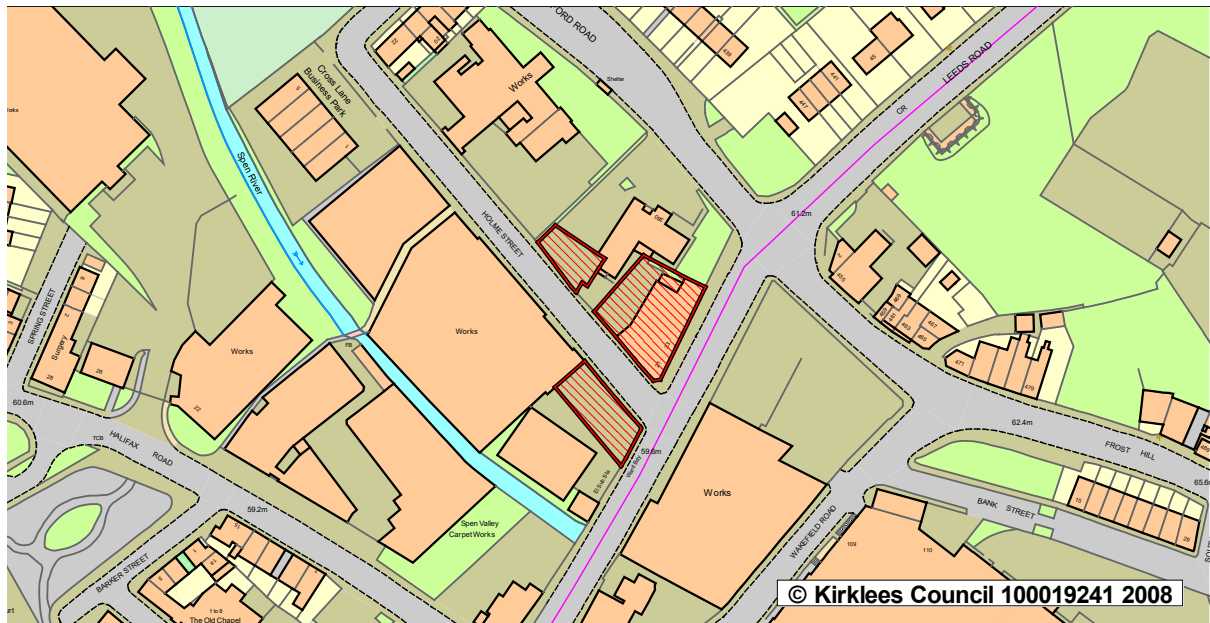
**EXTENSION EXPIRY DATE**

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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: Liversedge and Gomersal**

Yes

Ward Members consulted  
(referred to in report)

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**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 and issue the decision.**

**1.0 INTRODUCTION:**

1.1 The application for the change of use of carpet showroom to nursery and out of school club is brought to the Heavy Woollen Sub-Committee at the request of ward member Councillor David Hall.

1.2 Councillor David Hall's comments are as follows:

*"I would ask that this proceeds to the Planning Sub-committee. My only concerns are about parking and highways, and whether the provision is suitable for a nursery on a busy main road. I do think that it is a vital consideration, and that members would certainly benefit from a site visit to look themselves".*

1.3 The Chair of the Sub-Committee has confirmed that Councillor Hall'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 site, which is located on the junction of Leeds Road and Holme Street, comprises an existing building which has a former use as a carpet showroom in Liversedge. The site has an area of car parking to the side, and occupies a corner plot fronting on to both Leeds Road and Holme Street. The building is two stories and constructed of stone and render.

2.2 Surrounding the site is varied, with bed manufacturers and a window manufacturer surrounding the site. Further to the north of the site, there are residential dwellings.

2.3 The site, including the building, play areas and car parking areas are within Flood Zone 3 and partly in Flood Zone 3ai.

2.4 The site is unallocated on the Kirklees Local Plan.

### **3.0 PROPOSAL:**

3.1 Planning permission is sought for the change of use of the building from a former carpet showroom to a nursery and out of school club.

3.2 The change of use would relate solely to the ground floor of the building, with the first floor being used for residential flats as existing.

3.3 The access to the site would be from the existing doorway opening on Holme Street and would include areas labelled as 'out of school club' and two 'nursery areas' as well as an office and toilets. The internal arrangements can be seen on plan 19/16/A.

3.4 The proposed parking areas have been indicated on the submitted block plan, with an outside play area also indicated on Plan 19/16/B adjacent to the proposed nursery building. The parking areas include areas opposite the site.

3.5 The application form states that the nursery would provide full time employment for 5 people.

3.6 The nursery would open between 6am – 8pm on Monday to Friday and between 9am - 5pm on Saturday and Sunday.

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

4.1 2016/93012 – Prior approval for change of use from shop to 3 dwellings and associated operations DETAILS APPROVED

4.2 2019/90537 – Change of use from carpet showroom to nursery/out of school club WITHDRAWN

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

5.1 The case officer was in discussions with the agent during the course of previous application 2019/90537 to advice of concerns relating to Highway Safety, Flood Risk and noise. The issues have been resolved through the submission of further information (and subject to the imposition of conditions). No amendments were sought during the course of the current planning application.

### **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).

6.2 The site is unallocated on the Kirklees Local Plan.

### 6.3 Kirklees Local Plan (KLP):

- LP1 – Presumption in favour of sustainable development
- LP2– Place shaping
- LP21– Highway Safety
- LP22– Parking Provision
- LP24– Design
- LP27– Flood Risk
- LP28– Drainage
- LP30 – Biodiversity and geodiversity
- LP38 – Minerals safeguarding
- LP52– Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land

### 6.4 National Planning Policy Framework:

- Chapter 6** - Building a strong, competitive economy
- Chapter 9** – Promoting sustainable transport
- Chapter 12** – Achieving well designed places
- Chapter 14** – Meeting the need for climate change, coastal change and flooding
- Chapter 15** – Conserving and enhancing the natural environment
- Chapter 17** – Facilitating the sustainable use of minerals

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

7.1 One representation was received as a result of the original publicity period.

The comments raised are summarised as follows:

- No sound reduction to flat overlooking the playground
- Parking spaces will not be accessible all the time until children are moved to allow cars to access the spaces during the day
- Drop offs and pickups are not adjacent to the entrance
- No disabled parking shown – this was insisted upon at Little Rainbows
- Parking not adjacent to entrance of the nursery and no safe walk ways
- Car park used by vans will be pushed onto road causing further congestion, deliveries would be taken onto road and across pavements
- Skips, rubbish and container units would have to be located elsewhere
- No parking available for workers, deliveries or visitors to existing factory and showroom

7.2 Officer comments in response to the representations will be made in Section 10.33 of this report.

7.3 Officers' response to Councillor David Hall's comments will also be made in the Section 10.33 of this report.

## 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:

**K.C. Highways Development Management** – No objection subject to condition requesting a parking management scheme prior to the building being brought into use.

**Local Lead Flood Authority** – No objection

**The Environment Agency (EA)** – no objection.

## 8.2 Non-statutory:

**K.C Environmental Health** – No objection subject to condition requiring development to be brought into use in submitted noise report.

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”. Residential amenity, highway safety and flood risk will also be assessed in this report below.

10.2 As well as the above, Chapter 6 of the NPPF sets out how planning decisions should assist businesses to expand. This is considered to be relevant in this instance as the Design and Access Statement submitted with the application states that the nursery business will provide employment opportunities within the community and provide a much needed facility for childcare within the area. Whilst on a small scale, with full time employment to be generated for 5 employees, the proposed development is still considered to satisfy this aim of the NPPF.

### Visual amenity

10.3 Chapter 12 of the NPPF states that “the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities” Policy LP24 of the Kirklees Local Plan reiterates this and aspires for all developments to promote good design.

- 10.4 Officers note that the proposed change of use would not change the appearance or scale of the existing building and would therefore have a neutral impact on the character of the building itself, the area in which it is located and the streetscene. Any signage, which has the potential to impact on the character of the area/streetscene, is likely to require advertisement consent and therefore is subject to a separate assessment by Officers.
- 10.5 The character of the area is mainly industrial, with residential properties further to the north of the site. Notwithstanding this, the building will remain as existing within its context, meaning that Officers consider that the proposed development will have a neutral impact on visual amenity and will comply with the relevant design policies mentioned above.
- 10.6 The area of land adjacent to the nursery is currently hardstanding. This will remain the case. The submitted block plan shows that gates will be required close to the entrance to this play area. A condition has been recommended to require the details of the proposed gate, including its height, design and materials. It should however be noted that there is a variety of boundary treatments in the area and therefore the principle of a gate in this location can be accepted.
- 10.7 Taking into account the above and the very limited external changes that would be required to facilitate the proposed change of use, Officers consider that the proposed development would be acceptable from a visual amenity perspective, complying with Policy LP24 of the KLP and Chapter 12 of the National Planning Policy Framework.

#### Residential Amenity

- 10.8 The impact on residential amenity is considered by officers to be acceptable. Chapter 12 of the National Planning Policy Framework states that planning decisions create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. This is replicated in Kirklees Policy LP24 of the KLP.
- 10.9 As well as this, Chapter 15 of the National Planning Policy Framework states that planning decisions should ensure that new development is appropriate for its location, taking into account the likely effects of pollution on health and living conditions. Paragraph 180a of the NPPF states that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid giving rise to significant adverse impacts on health and quality of life. Policy LP52 of the Kirklees Local Plan reiterates this, stating that developments should not reduce the quality of life and wellbeing of people to an unacceptable level.
- 10.10 It is acknowledged that the nursery would be located below residential flats which are located on the first floor of the building (approved under 2016/93012) and therefore consideration has to be given to the impact of the proposed use. This is a noise generating use and therefore the case officer consulted K.C Environmental Health on the application. Their response is discussed below.

- 10.11 The applicant has provided a noise report which was requested during the course of previous application reference 2019/90537 by K.C Environmental Health. The purpose of this report was to assess the impact of the noise generated by the Children's Nursery and After School Club on the residential flats above.
- 10.12 The report concludes that the potential site activity noise would fall below the level at which noise is likely to be considered a justifiable nuisance to the occupiers of nearby occupiers. K.C Environmental Health have confirmed that the noise report is acceptable and therefore Officers have concluded that there would not be a harmful impact on the occupiers of the nearby properties, subject to the development being brought into use in accordance with the submitted details of 'Acoustic Report J2883'. A condition has been recommended to secure this requirement.
- 10.13 Officers are satisfied that the physical structure of the proposed building would not cause any detrimental harm to the amenity of the occupiers of surrounding properties and that the proposal complies with Policy LP24 of the KLP which states "proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings". The scale and form of the building is existing and there would be no overbearing, overlooking or loss of privacy to nearby occupiers.
- 10.14 A condition has been recommended to restrict the hours of use of the nursery and after school club to ensure that the use is not operating at anti-social hours which could impact on the amenity of neighbouring occupiers at the flats on the upper floor. The application form states that the use will operate 6am-8pm Monday to Friday and 9am-5pm. These hours are considered to be acceptable by officers and considered to further safeguard the amenity of neighbouring properties.
- 10.15 Overall, Officers consider that the proposal is, on balance, acceptable from a residential amenity perspective, compliant with Policies LP24 and LP52 of the KLP and guidance with the National Planning Policy Framework, in particular, Paragraph 127 (f) of Chapter 12 and Paragraph 170 (e) of Chapter 15.

#### Highway issues

- 10.16 Chapter 9 of the NPPF states that when assessing sites for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network, or on highway safety can be cost effectively be mitigated to an acceptable degree. Policy LP21 of the Kirklees Local Plan reiterates this, stating that new development will normally be permitted where safe and suitable access to the site can be achieved and where the residual cumulative impacts of development are not severe.
- 10.17 Highways Development Management (HDM) initially commented on the application and raised concerns in terms of a lack of trip generation details and the impact that the proposed use would have on the local highway network. There was also a lack of clarity over how the parking/drop off spaces for the development would operate, given that the parking spaces that are proposed are also used for other uses surrounding the site (including flats above the building and a bed factory on the opposite side of Holme Street).

- 10.18 This clarity is required to ensure that there would not be surplus vehicles on the highway as a result of the proposed development displacing the parking from the other uses. A condition has been recommended for a parking management plan to be submitted because officers consider this necessary for highway safety reasons.
- 10.19 Justification for 25 parking spaces should be included within the subsequent submission of information to ensure the parking provision requirements for the proposed development are fulfilled, as well as the residential apartments above and the parking requirements of the two businesses within the red line boundaries. Officers consider that the supplementary evidence should demonstrate how the pickup/collection of children will be staggered, and that the trips to the site will not significantly intensify the use of the site above its lawful use as a carpet showroom.
- 10.20 It has been confirmed by HDM that the principle of development is acceptable but that, as set above, a parking management plan is required to manage parking within the submitted red line boundaries in the interest of highway safety.
- 10.21 It should be noted that the impact on the local highway network is not a significant concern given the scale and the nature of the proposed development.
- 10.22 Considering the above, Officers state that the impact on highway safety is acceptable, on balance, subject to a condition requesting a parking management plan to be submitted to and approved in writing by the Local Planning Authority. This information would be required prior to the building being brought into use as a nursery/out of school club should planning permission be granted.
- 10.23 In all, the proposal is considered, on balance, acceptable from a highway safety and efficiency perspective with the inclusion of the suggested conditions, complying with Policies LP21 and LP22 of the KLP and Chapter 9 of the NPPF.

#### Drainage issues

- 10.24 The application site is in Flood Zones 2, 3, 3a and Flood Zone 3ai and therefore consideration has to be given to the National Planning Policy Framework and Local Plan Policy LP27.
- 10.25 The NPPF states that “when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b) the development is appropriately flood resistant and resilient;



- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan”

- 10.26 This is reiterated in the Kirklees Local Plan Policy LP27 ‘Flood Risk’ and a Flood Risk Assessment was submitted.
- 10.27 The Environment Agency have reviewed the information and stated that there is no objection on the grounds of fluvial flood risk and that the Flood Risk Assessment provides adequate mitigation measures to satisfy the National Planning Policy Framework.
- 10.28 However, they note that the Flood Risk Assessment has failed to demonstrate that the change of use from a less to more vulnerable use is acceptable. Officers have assessed the proposed development and supporting information, and consider its impact to be, on balance, acceptable. The Lead Local Flood Authority have subsequently not objected to the planning application.
- 10.29 Officers consider that the proposed use is acceptable and in accordance with Local Plan Policy due to the fact that the area of the site that will be occupied will be in Flood Zone 3a. The area of the site that is in Flood Zone 3ai (the play area) will not be altered and will not affect the functional flood plain.
- 10.30 A condition has been recommended to ensure that the development is carried out in accordance with ‘Flood Risk Assessment E19/7457/FRA001 B’, as well as two conditions relating to mitigation measures.
- 10.31 Footnotes are also advised to be included to the decision notice, should planning permission be granted, to provide advice relating to Flood Evacuation Plan, Services, Flood Resilience and signing up to Flood Warnings.
- 10.32 As such, subject to the inclusion of the above suggested conditions, the proposal complies with Policy LP28 of the KLP and Chapter 14 of the NPPF.

#### Minerals Safeguarding

- 10.33 The site is over 1000sq m and is within a wider mineral safeguarding area and therefore Local Plan Policy LP38 applies. This policy is important to ensure that known mineral reserves are protected from permanent development which may sterilise such resources through encouraging the extraction of mineral, if feasible, prior to non-mineral extraction taking place.
- 10.34 This policy states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. In this case, the application for planning permission relates to change of use of a building rather than surface development, and therefore justification from the applicant/ agent is not required. The proposal is considered to be acceptable in this regard.

## Representations

10.35 One representation was made as a result of the original planning application, raising the points below which are addressed by officers as follows:

- No sound reduction to flat overlooking the playground  
**Officer comment:** *A noise report was provided with the application and K.C Environmental Health have confirmed that this is satisfactory.*
- Parking spaces will not be accessible all the time until children are moved to allow cars to access the spaces during the day
- Drop offs and pickups are not adjacent to the entrance
- No disabled parking shown – this was insisted upon at Little Rainbows
- Parking not adjacent to entrance of the nursery and no safe walk ways
- Car park used by vans will be pushed onto road causing further congestion, deliveries would be taken onto road and across pavements
- Skips, rubbish and container units would have to be located elsewhere
- No parking available for workers, deliveries or visitors to existing factory and showroom

**Officer comment:** *In response to all of the above points, see the highway safety section of this report which will confirm the requirement for the applicant to justify the parking demand and provision at the site in the form of a car parking management scheme. This would be required to be submitted prior to the commencement of development.*

10.36 Councillor David Hall has stated the following:

“I would ask that this proceeds to the Planning Sub-committee. My only concerns are about parking and highways, and whether the provision is suitable for a nursery on a busy main road. I do think that it is a vital consideration, and that members would certainly benefit from a site visit to look themselves”.

**Officer comment:** *this is noted. See highway safety section of this report.*

## Other Matters

### *Pre-commencement conditions*

10.37 The agent has confirmed their agreement to the recommended pre-commencement condition. This is in line with the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018.

### *Protected species*

10.38 The site is in the bat alert layer and identified on the Kirklees Local Plan GIS mapping layer and therefore consideration has been given to Ecology. In this case, the application is for the change of use of the building and therefore the proposed development would not require any demolition or other alterations that may affect bats or bat roosts. For this reason, Officers consider that a footnote to advise the applicant is considered satisfactory to comply with the aims of Policy LP30 of the KLP and Chapter 15 of the NPPF.

### *Coal Mining Legacy*

- 10.39 The site is located within a 'low risk' coal mining area and the proposed development is for the change of use of the building, with limited external alterations. Officers note that a Coal Mining Risk Assessment is not required with the application and consultation with the Coal Authority has not been undertaken. Instead, a footnote has been added to the decision notice to advise the applicant should coal mining works be found during construction. The proposal complies with Policy LP53 of the KLP and Chapter 15 of the NPPF.

### *Climate Change*

- 10.40 Chapter 12 of the KLP relates to climate change and states that "Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. Furthermore, the inclusion of electric vehicle charging point(s) to serve the development, which is recommended to be secured via condition, would contribute positively to the aims of climate change.

## **11.0 CONCLUSION**

- 11.1 To conclude, it is considered that, with the inclusion of the suggested conditions set out in section 12.0 below, the proposal would have, on balance, an acceptable impact with regards to visual amenity, residential amenity, highway safety and flood risk as discussed in the above report.
- 11.2 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.
- 11.3 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. Standard timeframe for implementation (3 years).
2. Development in accordance with plans.
3. Vehicle parking areas to be of permeable surfacing.
4. Electric charging points.
5. Hours of operation – as stated within residential amenity section (6am-8pm Mon to Fri, 9am-5pm Sat and Sun).
6. In accordance with the submitted Flood Risk Assessment.
7. Development to be carried out in accordance with the Flood Risk Assessment (prepared by Innervision Design Ltd, updated December 2018) submitted under 2018/93195.
8. Development to be carried out in accordance with the noise report (Acoustic Report).
9. Pre-commencement condition relating to Car Parking Management Plan.
10. Details of height and materials of the proposed gate to be submitted.

**Footnotes:** Flood Evacuation Plan, Services, Flood Resilience and Proofing and Flood Warnings.

**Background Papers:**

Application documents can be viewed using the link below:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/93266>

Certificate of ownership – Certificate B signed and dated: 4<sup>th</sup> October 2019