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

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 14-Apr-2021**

**Subject: Planning Application 2020/90501 Change of Use and alterations to convert trade counter retail unit to function room and store Former Harrisons Electrical Warehouse, Huddersfield Road, Dewsbury, WF13 2RU**

**APPLICANT**

Patel, Patel and Adam,  
A&P Dewsbury Ltd

**DATE VALID**

17-Feb-2020

**TARGET DATE**

13-Apr-2020

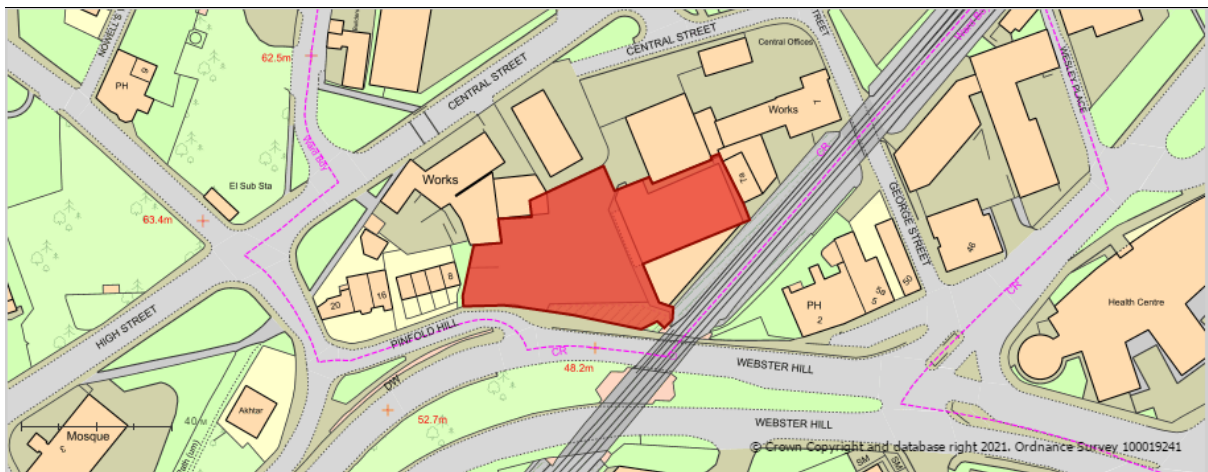
**EXTENSION EXPIRY DATE**

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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 West**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

**DELEGATE approval of the application 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 is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Aleks Lukic. The reason for the committee request is set out as follows.
- 1.2 "I have requested that this application be considered at committee as I have concerns about the amenity of residential neighbours on Pinfold Hill, about the parking situation and whether the guest number limit is adequately enforceable".
- 1.3 The Chair of the Sub-Committee has confirmed that this arrangement is appropriate, having regard to the Councillor's Protocol for Planning Committees and the Constitution.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The building is a large brick building with a grey metal clad pitched roof, located in an elevated position above the adjacent dual carriageway. There is a car park to the front of the building with an access from Pinfold Hill close to the junction with Huddersfield Road/Webster Hill.
- 2.2 The warehouse consists of a large storage area with a showroom and small trade counter; there is a further storage area on a mezzanine level above the showroom.
- 2.3 Immediately adjacent to the south east boundary of the site runs the Trans-Pennine railway on an elevated viaduct close to Dewsbury Railway Station.
- 2.4 To the north and east of the site are other small industrial buildings and workshops, and to the west, adjacent to the car park is a row of terraced dwellings.
- 2.5 The site is unallocated on the Kirklees Local Plan and outside of the defined Dewsbury town centre.

### **3.0 PROPOSAL:**

- 3.1 The proposal is for the change of use and alterations to convert the existing trade counter retail unit to a function room; the supporting information states that this would be used for birthday parties, weddings, parties generally and other celebratory events.
- 3.2 The proposals involve alterations to the external appearance of the building in the form of the application of coloured polymer render to the front elevation. The existing window frames will be painted grey.
- 3.3 A Transport Assessment has been submitted with the application which provides details of parking arrangements and how the premises would be accessed by other modes of transport including walking.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

91/01520 Erection of single storey warehouse and sales outlet – Approved

2019/90155 Change of use and alterations to convert trade counter retail unit to function room – Withdrawn

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

- 5.1 In view of the initial concerns raised by KC Highways Development Management Team, the applicant submitted a Car Park and Event Management Plan to explain how the anticipated traffic from this development would be managed such that it would not cause an overspill of parking needs to its immediate surroundings.
- 5.2 As well as this, due to the difference between the red line boundary of the current application and that of the withdrawn application, the applicant was requested to revise the floor plans, removing the prayer room, reception and store that are outside the current red line boundary.
- 5.3 The revised drawings were received on 26-Mar-2021. No further details or amendments were sought thereafter.

### **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 (KLP):

**LP 1** – Achieving sustainable development

**LP 2** – Placing shaping

**LP 13** – Town centre uses

**LP 16** – Food and drink uses and the evening economy

- LP 18 – Dewsbury town centre
- LP 21 – Highway safety
- LP 22 – Parking
- LP 23 – Core walking and cycling network
- LP 24 – Design
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality

### 6.3 National Planning Policy Framework

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 This application was publicised by site notice and neighbour letter, which expired on 04-Apr-2020. Following this publicity, 3 written representations were received from the occupants of the adjoining premises, who raised the issues below.

- There is inadequate parking provision to support a development of this kind.
- The applicant is likely to go over the limit of 200 people and 3 days a week if the venue is to meet the need of its perspective customers.
- The two parking surveys conducted to inform the Transport Assessment are not adequate to provide a genuine representation of the existing parking situation in the vicinity of the site.
- The limit in relation to the number of guests is not enforceable by planning condition.

## 8.0 CONSULTATION RESPONSE:

### 8.1 Statutory

**Network Rail:** No observations to make on this application.

### 8.2 Non-statutory:

**KC Highways Development Management:** We consider the proposal will be on balance acceptable in terms of its impacts on the local highway network and road safety.

**KC Environmental Health:** Subject to two conditions, the development concerned is acceptable from an environmental health perspective.

**KC Planning Policies:** No objection to the change of use proposed, subject to the recommended condition.

## 9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety and parking
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections of this report.
- 10.2 The proposal is for the change of use and alterations to convert a trade counter retail unit to a wedding function room and store. The application site is in an edge of Dewsbury Town Centre. Policy LP13 of the KLP and chapter 7 of the NPPF stipulate that proposals for main town centre uses should be located in town centres first and then edge of centres and only if no sequentially preferable premises are available should out of centre locations be considered.
- 10.3 The submitted Planning Statement states that the function room would be used for hosting Asian weddings with no licensed bar or food cooked on site. It would not be open to members of public, nor would it open at irregular hours. It is, therefore, considered on the basis of the information provided that the proposed use does not fall to be considered a leisure use, which is defined as a main town centre use in Annex 2 of the NPPF. Accordingly, the change of use to a wedding function room does not require a sequential test, nor does it need to be supported by an impact assessment in accordance with policy LP13 of the KLP and chapter 7 of the NPPF.
- 10.4 Notwithstanding the above, consideration has been given to the potential of impact on the vitality of Dewsbury Town Centre that might arise from the current scheme. On this occasion, given the function room is to be used for Asian weddings only and there are no sequentially-preferable premises within Dewsbury Town Centre that could accommodate this function room, officers are satisfied that it is acceptable in terms of its impact on the vitality of Dewsbury Town Centre.

- 10.5 The proposed use would fall within Use Class Sui Generis. Hence, the use of this function room for purposes other than those specified in the Design and Access Statement is likely to amount to a material change of use, which requires separate approval from the Local Planning Authority in writing. It is, therefore, considered not necessary to impose a condition restricting the use of this development to formal occasions only, as suggested by the Planning Policies Team. The impact on town centre vitality would remain acceptable even without this condition.
- 10.6 In summary, it is considered that the impact on town centre vitality would be acceptable in respect of policy LP13 of the KLP and chapter 7 of the NPPF. The principle of development in question is acceptable.

#### Impact on visual amenity

- 10.7 The main external alterations to the building would be the changes to the front elevation in the form of a polymer render and the painting of the existing window frames in a grey colour.
- 10.8 These alterations would be minimal and, in the opinion of officers, would help to improve the appearance of the front elevation with a more contemporary design.
- 10.9 Providing the colour of the render is appropriate, details of which can be secured via condition, the proposals, in terms of visual amenity, are considered to be in accordance with the aims of Policy LP24 of the KLP and Chapter 12 of the NPPF.

#### Impact on residential amenity (including noise and disturbance)

- 10.10 The proposed development would be within a mainly business / industrial area, however there are also residential properties close to the site, particularly those on Pinfold Hill which adjoin the car park. There are potential noise concerns therefore from a venue of this type and Environmental Health were consulted.
- 10.11 The Environmental Health Service has not objected to the proposals however, concerns have been raised based on previous experience of other similar venues. There is potential for disturbance both from guests celebrating outside of the building and from the significant increase in the volume of traffic using the car park.
- 10.12 A number of standard Environmental Health conditions have therefore been recommended, should planning permission be granted. These include:
- Entertainment noise inaudibility condition; this would require the submission of a noise report to show that all entertainment noise would be inaudible at properties on Pinfold Hill and Webster Hill.
  - Hours of use would be restricted to 17:00 to 22:00 Fridays and 11:00 to 22:00 Saturdays, Sundays and Bank Holidays

- 10.13 The above conditions are considered reasonable in order to address issues of residential amenity and as such the proposals are considered to be in accordance with Policies LP16, LP24 and LP52 of the KLP and Chapters 12 and 15 of the NPPF.

Impact on highway safety

- 10.14 The proposed wedding function room would have a maximum capacity of up to 200 guests. There would be 34 parking spaces provided within the site, according to the submitted site plan. Although it is appreciated that a similar change of use proposal was refused for highway safety reasons in 2019, the maximum capacity of the function room in this application has been significantly reduced compared to that of the refused application.
- 10.15 The applicant provided a Transport Assessment and a Parking and Event Management Plan in support of this development. The Highways Development Management Team was consulted on this application and advised, in view of all the information provided, that the development could be, on balance, acceptable in terms of highway safety and parking.
- 10.16 Paragraph 5.1.9 of the Transport Assessment estimates that a total of 46 spaces would be required to support this development with a maximum capacity of 200 guests. Referring to the submitted site plan, there would only be 34 parking spaces available within the site. In this respect, it is likely that there could be a shortfall of 12 parking spaces when the function room operates in its full capacity. As these figures are based on assumptions rather than on observed averages, there might be fluctuations and the actual parking demand might be above these figures on occasion might lead to parking and obstruction issues.
- 10.17 Notwithstanding the potential shortfall in parking provision, the application site is at the edge of Dewsbury Town Centre with an appropriate level of public car parking provision. Given the degree of shortfall anticipated and the time at which the weddings are to be held, it is considered that the unmet parking needs could be provided by the existing on-street parking spaces and public car parks within the town centre of Dewsbury. Furthermore, the accessible location of the application site means that the guests could potentially get there by public transport.
- 10.18 The submitted Parking and Event Management Plan identifies various measures through which the shortfall in parking provision would be addressed. It is considered that the proposed measures would assist in mitigating the potential of impact on highway safety and parking. In view of these mitigation measures and the cap concerning the number of guests, officers are of the opinion that the development could be, on balance, acceptable concerning its impacts on the local highway network.
- 10.19 The National Planning Practice Guidance provides that the local planning authority may grant planning permission for a specified temporary period only. Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

- 10.20 In this case, as noted in paragraph 10.16, the car parking figures are based on assumptions rather than on empirical evidence. Therefore, it is appropriate to grant a temporary permission for 3 years to monitor any issues with parking caused by the development. If the Parking and Event Management Plan is proven to be inadequate to manage the impact of this development, then the subsequent application for permanent permission could be refused.
- 10.21 In addition to limiting the planning permission to temporary consent, a condition is also recommended to be imposed to restrict the maximum number of guests to 200 persons, in accordance with the Design and Access Statement. The traffic associated with the wedding function room should be managed in complete accordance with the Parking and Event Management Plan. This again would be secured by condition.
- 10.22 In summary, subject to all the conditions set out in the paragraphs, it is considered that the highway safety and parking impacts associated with this development would be managed in such a way that it would not give rise to significant conflicts with policies LP21 and LP22 of the KLP. The proposal is, on balance, acceptable from a highway safety perspective.

#### Other matters

##### *Climate emergency*

- 10.23 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.24 The proposal is for the change of use of a trade counter retail unit to a wedding function room. To promote the use of ultra-low emission vehicles and to improve the local air quality, a condition should be imposed to require the provision of electrical vehicle charging points, in accordance with policies LP24 and LP51 of the KLP and chapter 14 of the NPPF.

##### *Drainage*

- 10.25 The application is for a change of use to an existing building with all surface water and foul drainage to be retained as existing.



### *Planning enforcement*

- 10.26 Notwithstanding the above assessment on this application, if Members are minded to refuse the development proposed, the Planning Enforcement Team might take further actions in connection to the alleged unauthorised material change of use if it is considered expedient to do so. An update will be provided separately by the Planning Enforcement Officer following the determination of this application.
- 10.27 There are no other matters considered relevant to the determination of this application.

### Representations

- 10.28 This application was publicised by site notice and neighbour letter, which expired on 04-Apr-2020. Following this publicity, 3 written representations were received from the occupants of the adjoining premises, who raised the issues below.
- There is inadequate parking provision to support a development of this kind.  
**Response:** The impact on parking has been assessed in the highway safety section.
  - The applicant is likely to go over the limit of 200 people and 3 days a week if the venue is to meet the need of its perspective customers.  
**Response:** A condition is imposed to ensure that the function room does not host guest more than the agreed capacity.
  - The two parking surveys conducted to inform the Transport Assessment are not adequate to provide a genuine representation of the existing parking situation in the vicinity of the site.  
**Response:** The impacts on highway safety and parking have been assessed in the highway safety section.
  - The limit in relation to the number of guests is not enforceable by planning condition.  
**Response:** Following discussion with the Planning Enforcement Team and based on the previous experience on similar proposals, officers are satisfied that the conditions recommended will be enforceable that it will meet the relevant tests outlined in the NPPF and the NPPG.

## **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.

## **Conditions**

1. Temporary planning permission for 3 years from the date of decision.
2. In accordance with the submitted plans.
3. All entertainment noise to be controlled as to be inaudible at the nearest residential properties.
4. 3 electric vehicle charging points be provided on site before the development is brought into use.
5. Development to be managed in accordance with the details provided in the Parking and Event Management Plan.
6. Maximum number of guests to be limited to 200 at any time

## **Background Papers:**

Application web link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/90501>

Certificate of Ownership: Certificate A signed and dated 16-Feb-2020

