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

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 14-Oct-2021**

**Subject: Planning Application 2020/94412 Installation of replacement shop fronts 8, Cowper Street, Savile Town, Dewsbury, WF12 9NN**

**APPLICANT**

A I Dadibhai

**DATE VALID**

29-Dec-2020

**TARGET DATE**

23-Feb-2021

**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 South**

**Ward Councillors consulted: No**

**Public or private: Public**

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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 is brought to the Heavy Woollen Sub-Committee following a request from Cllr Masood Ahmed for members to consider the impact of the proposal on design, appearance and visual amenity.
- 1.2 Cllr Ahmed also raised concern to 'the highways impact of the subdivision of the existing single retail unit into 4 separate shops given the oversubscription of this road at present given the very urban and high-density nature of the area'. Whilst amendments have been made to the scheme which is for the installation of a replacement shopfront only, it is noted that the shopfront would facilitate the subdivision of the existing retail unit, and as such, concerns relating to parking and highway safety can be taken into consideration.
- 1.3 The Chair of the Heavy Woollen Sub-Committee has confirmed that Councillor Masood Ahmed's reasons for referral to committee are valid having regard to the Councillor's Protocol for Planning Committees.
- 1.4 This application was deferred at the Heavy Woollen Sub-Committee meeting on 2<sup>nd</sup> September 2021 for further information to be submitted regarding the precise use of the proposed retail units and negotiations to achieve off-street parking.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application relates to 8 Cowper Street, a two-storey property in Saville Town, Dewsbury. It is constructed from stone for the external walls and tiles for the roof. The property currently comprises a two-storey dwelling to the southern most element. There is an existing retail unit towards the north at ground floor level with a residential flat above. There is a single storey projecting element to the rear of the building which serves a store. The property is located on the corner of Cowper Street and South Street. The retail unit fronts onto South Street with vehicular access and an area of hardstanding to its front elevation. There is an access door to the first-floor level flat towards the north of the building. Access to the dwelling is taken to the south of the building where there is also an area of hardstanding and vehicular access from Cowper Street. There is an existing shopfront to the retail unit which is located towards the centre of the building.

2.2 The site is located within a predominately residential area with residential properties adjacent to all elevations. There is, however, an existing commercial use located to the south of the site on South Street. The properties along South Street are generally of a similar character, though there is some variation in terms of design. The style and design of the properties also varies within the wider area. The predominant material of construction within the vicinity is stone.

### **3.0 PROPOSAL:**

3.1 The application originally sought planning permission for the installation of a replacement shop front and the subdivision of the existing retail unit. Following revisions to the scheme, the application seeks planning permission for the replacement shop fronts only.

3.2 The replacement shopfront would be located to the front elevation of the retail unit, fronting onto South Street, providing a separate entrance for each of the proposed four retail units. It would have a width of 21m, a height of 3.15m and a projection from the principal elevation of the building of 0.45m. The opening to the existing dwelling and access door to the first-floor level flat towards the north elevation of the building would be retained.

3.3 The shopfront would be constructed from aluminium and would be grey in colour (anthracite RAL7016). The individual shopfront units would also be constructed from aluminium in the same colour. Panels of K Rend Silicone render in colour granite are proposed between the individual units.

3.4 The submitted plans show the location of proposed signage. This cannot be considered as part of this planning application and a separate application for Advertisement Consent may be required.

3.5 The new retail units, whilst not under consideration as part of this planning application, would fall within the Class E use class, forming small units of a local nature which would serve the local community.

3.6 Four off-street parking spaces for customer parking would be provided to the front of the retail units and would be accessed through the existing access to the site which leads off South Street.

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

98/90337 – Erection of double garage extension. Granted.

96/92950 – Erection of two-storey extension to shop and dwelling. Granted.

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

5.1 The application originally sought planning permission for the installation of a replacement shop front and the subdivision of the existing retail unit.

- 5.2 Additional plans were requested from the applicant's agent during the course of the application showing the provision of off-street parking within the site. This was in response to a consultation response from the Council's Highways Development Management team in which some concern was raised to potential for the subdivision to result in a slight increase in parking demand and to place additional pressure on the existing on-street parking. The provision of off-street parking within the site was requested to mitigate the increase in parking demand.
- 5.3 An email from the applicant's planning consultant was received on 29-Apr-2021 which referred to Section 55 (2) of the Town and Country Planning Act 1990. It was requested that the application be determined based on the replacement shopfront only, as the subdivision of the unit does not constitute development for the purpose of the act and as such, would not require planning permission in its own right. For the purpose of Section 55 (2) of the Town and Country Planning Act 1990, where a building would remain in the same use, its subdivision is not considered to constitute development. In this case, it is noted that the ground floor of the building comprises a retail unit, which would be split into four separate retail units. As such, the use class of the new units would remain as existing. Additionally, the new internal walls required to separate the units would also not constitute development. It was requested that the description of proposal be amended, and the application be determined on the basis of the replacement shopfront only, as the external works proposed would constitute development to the building. The subdivision of the retail unit is shown on the submitted drawings, however officers are satisfied that this element does not require planning permission and the application shall be determined based on the installation of the replacement shopfront only. As the external works to the shopfront would facilitate the subdivision, consideration can be given to concerns regarding the impact on highways safety and parking as a result of the subdivision which should be balanced against the realistic fall-back position that the subdivision could be completed in any event, as set out above.
- 5.4 Additional information was sought from the agent regarding the materials and colour of the proposed shop front. An additional plan reference 20174-D05-A was submitted on 25-May-2021 showing the proposed materials. The materials of the shopfront are set out above.
- 5.5 As the revisions to the scheme have removed the subdivision from consideration of the application and confirmed the proposed materials, the amendments have not been advertised in this instance.
- 5.6 The application was first brought to the Heavy Woollen Planning Sub-Committee meeting on 2<sup>nd</sup> September 2021 and was deferred for further information to be submitted regarding the precise use of the proposed retail units and negotiations to achieve off-street parking.
- 5.7 It has been confirmed, by email received from the applicant's planning consultant on 10-Sep-2021 that the new retail units would fall within the Class E use class, forming small units of a local nature which would serve the local community.

5.8 A proposed site plan has been submitted showing the provision of four parking spaces to the front of the site. Following a discussion with the Council's Highways Development Management officer, it is noted that the proposed parking arrangements would offer some improvement from the existing arrangements by marking out four parking spaces within the existing yard, however, this improvement would be minimal. It has however been suggested previously that removing a section of the boundary wall and extending the dropped kerb could provide off street customer parking spaces perpendicular to the building. Whilst it is acknowledged that this would result in some loss of existing on-street parking, it is considered that a net increase in parking provision could be achieved which would offer greater levels of customer parking than what is currently shown on the submitted plan. This has been relayed to the applicant's agent and planning consultant, however, no additional plans to this affect have been submitted. The applicant's planning consultant has advised that the proposed four parking spaces can be provided, or alternatively, three parking spaces with an area retained for turning. Officers have discussed these suggestions with the Highways Development Management officer who considers, out of these two options, the provision of four parking spaces to be preferable.

## **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. However, it is located within the Strategic Green Infrastructure Network.

### **6.3 Kirklees Local Plan (KLP):**

**LP 1** – Achieving sustainable development

**LP 2** – Place shaping

**LP 21** – Highway safety and access

**LP 22** – Parking

**LP 24** – Design

**LP 25** – Advertisement and shop fronts

**LP 31** – Strategic Green Infrastructure Network

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

**LP 53** – Contaminated and unstable land

### **6.4 National Planning Policy Framework**

**Chapter 2** – Achieving sustainable development

**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

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

7.1 As a result of the publicity period, 15 representations against the proposal have been received. The points raised are summarised as follows:

- Existing issues with traffic and on-street parking which would be worsened by the subdivision of the existing retail unit.
- Risk to safety of pedestrian traveling to the nearby schools.
- There are already 3 commercial shops, barbers and Dewsbury Markaz which cause high volumes of traffic in the area.
- Increase in customers to retail units due to three additional shops.
- Increase in pollution and noise levels which would be detrimental to the surrounding residential properties.
- South Street is a residential area and should remain a residential area.
- No details regarding the types of shops which would be created.
- A sequential test has not been submitted with the application.
- No opening hours submitted for the proposed shops.
- Proposal represents an overdevelopment of the site.

## **8.0 CONSULTATION RESPONSES:**

8.1 The following consultation responses were provided based on the original scheme before revisions to the proposal and the matters for consideration were made.

### **8.2 Statutory:**

KC Highways Development Management (HDM) – Raised some concern to the original scheme and requested amended plans to show the provision of off-street parking within the site.

KC Strategic Waste – No objection, however, recommend the inclusion of a footnote attached to the decision notice.

### **8.4 Non-Statutory:**

KC Environmental Health – No objection subject to the inclusion of conditions relating to the provision of electric vehicle charging points and the reporting of unexpected contamination.

## **9.0 MAIN ISSUES**

- Principle of development
- Impact on visual amenity
- Residential amenity
- Highway issues
- 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.
- 10.2 The application site is recorded as being located within the Strategic Green Infrastructure Network on the Kirklees Local Plan.
- 10.3 Policy LP31 of the Kirklees Local Plan states that proposals should ensure that the function and connectivity of green infrastructure networks and assets are retained, replaced or provided where appropriate, incorporating or providing new walking, cycling and ecological links.
- 10.4 The application relates to the replacement of a shopfront and, therefore, Policy LP25 of the KLP is relevant. This sets out that:

The development of new or replacement shop front units and display of advertisements will only be permitted if they satisfy the following criteria:

- a) the design is consistent with the character of the existing building in terms of scale, quality and use of materials;
  - b) proposals respect the character of the locality and any features of historic, architectural, cultural or other special interest;
  - c) the shop fascia is designed to be in scale, in its depth and width, with the façade and street scene of which it forms part.
- 10.5 In this case the proposal is for the installation of a replacement shopfront to an existing retail premise. The shopfront would replace an existing shopfront to the principal elevation of the building. In this case the principle of development is considered to be acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity as well as highway safety. The proposal shall be considered against Policy LP25 of the KLP within the impact on visual amenity section below.

### Impact on Visual Amenity

- 10.6 The proposal is for the installation of a replacement shopfront to an existing retail unit. The unit would be subdivided into four separate units. However, it is noted that this does not require planning permission and does therefore not form part of the consideration of the planning application.

- 10.7 The proposed shopfront would have a slightly greater height than the existing shopfront and would project beyond the front elevation of the property by approximately 0.4m. The shopfront would have a width of 21m when compared to the existing shopfront which has a width of 10m. It would replace existing openings to the retail unit which are located towards the northern elevation of the building.
- 10.8 Whilst the replacement shopfront would alter the appearance of the principal elevation of the building, it is considered proportionate in terms of its height, width and depth to the scale of the building. The shopfront would be constructed from aluminium which is considered an acceptable material for a development of this nature. The shopfront would replace an existing shopfront to the front of the building which appears to be of a similar material of construction.
- 10.9 The amended plans which have been submitted during consideration of the application illustrate that the shop front and rendered panels would be grey in colour. This colour is in keeping with the existing shopfront and is considered acceptable in relation to both the host building and the wider area where there are several other shop fronts which differ in colour. As such, the impact of the proposed development on the street scene and wider area is considered acceptable.
- 10.10 In conclusion, it is considered that the proposed development would be acceptable in terms of its design and the impact on visual amenity of the host building as well as the character of the immediate surroundings. On this basis, officers are satisfied that the proposal complies with Policies LP24 and LP25 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

#### Impact on Residential Amenity

- 10.11 The site is located within a residential area. This section will assess the relationship between the development and the neighbouring properties.
- 10.12 Due to the nature of the proposal, which involves the installation of a replacement shopfront to an existing retail unit, it is considered that the proposal would not have a harmful impact on the closest residential properties, including the adjoining residential dwelling and flat above. Whilst the existing retail unit is shown to be subdivided on the submitted plans, this element does not require planning permission and does therefore not form part of the assessment of this planning application.
- 10.13 For the reasons set out above, the proposed development is considered acceptable regarding the impact on residential amenity. This is in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

#### Impact on Highway Safety

- 10.14 The proposal originally sought planning permission for the installation of a replacement shopfront and the subdivision of the existing retail unit.



- 10.15 As part of the Highways Development Management consultation response, it was noted that the existing retail unit would be subdivided into 4 smaller units, with no net increase in retail floor area. There is access to the rear of the property which appears to be used for servicing and deliveries and could also accommodate some staff parking. Vehicle access is also available from South Street to the forecourt area to front of the retail unit. Existing signage on the property suggests that this area has previously been used for customer parking.
- 10.16 Whilst there would be no net increase in retail floor area, it is considered that the sub-division is likely to result in a slight increase in parking demand. On-site observations and a review of information submitted by objectors confirms that on street parking in the area is widespread with many of the residential properties not benefiting from off-street parking. It is acknowledged that any increase in parking demand would place additional pressure on existing on-street parking. To help mitigate any slight increase in parking demand from a result of the sub-division, it was requested that the applicant confirmed the existing off-street parking provision and provided details of how this could be formalised/maximised. It was suggested by the Highways DM officer that removing a section of the boundary wall to South Street and extending the dropped kerb could be a possible solution to providing additional customer parking perpendicular to buildings frontage.
- 10.17 Following revisions to the scheme, the application seeks planning permission for the replacement of the existing shopfront only with the subdivision of the retail unit not requiring planning permission. Notwithstanding this, as the external works are to facilitate the subdivision, consideration can be given to the impact of the proposal on highway safety.
- 10.18 The application was first brought to the Heavy Woollen Planning Sub-Committee meeting on 2<sup>nd</sup> September 2021 and was deferred for further information to be submitted regarding the precise use of the proposed retail units and negotiations to achieve off-street parking. It has been confirmed by the applicant's planning consultant that the new retail units would fall within the Class E use class, forming small units of a local nature which would serve the local community. A drawing has been submitted showing the provision of four parking spaces within the existing yard area which is located to the front of the property. The parking would utilise the existing access which is taken from South Street.
- 10.19 The Council's Highways Development Management officer has reviewed the submitted plan. Whilst it is acknowledged that four off-street parking spaces would be provided, these are considered to formalise the existing parking arrangements at the site. Whilst there would be some improvement to the existing arrangements, this would be limited. As noted within the previous consultation response, it is considered that removing a section of the boundary wall and extending the dropped kerb could be a possible solution to providing additional customer parking perpendicular to South Street. Whilst this would result in the loss of some of the existing on street parking, it is considered that a net increase in parking provision could be achieved. This advice has been relayed to the applicant's agent and planning consultant though no further plans showing additional parking to the frontage of the site have been forthcoming.

- 10.20 The application is being assessed with the consideration of four parking spaces provided within the existing external yard to the front of the building. Whilst it is considered that additional off-street parking could be provided, it is acknowledged that the formalisation of the four parking spaces as shown on the submitted plans would result in a slight improvement from the existing parking arrangements. When taking into consideration the realist fallback position that the subdivision could be completed in any regard, the provision of four off-street parking spaces is considered acceptable from a highway safety perspective.
- 10.21 The replacement shopfront would have a slight projection beyond the front elevation of the building. This projection would however be limited to 0.45m and is considered not to impact on vehicle movement within the site which would be harmful in terms of highway safety.
- 10.22 In summary, it is considered that the proposed replacement shopfront would be acceptable from a highway safety perspective, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

### Representations

#### Highway Safety Concerns

- Existing issues with traffic and on-street parking which would be worsened by the subdivision of the existing retail unit.
- Increase in customers to retail units due to three additional shops.
- Risk to safety of pedestrian traveling to the nearby schools.

**Officer Comments:** Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. The impact of the replacement shopfront has been considered within the Impact on Highway Safety section of this report and is considered acceptable.

#### Nature of the Surrounding Area

- There are already 3 commercial shops, barbers and Dewsbury Markaz which cause high volumes of traffic in the area.
- South Street is a residential area and should remain a residential area.

**Officer Comments:** Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. The residential nature of the surrounding area has been noted by officers. The application relates to an existing retail unit, and as such, the replacement of the existing shopfront to this unit is considered acceptable.

## Pollution and Noise Concerns

- Increase in pollution and noise levels which would be detrimental to the surrounding residential properties.
- No opening hours submitted for the proposed shops.

**Officer Comments:** Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. It is considered that the replacement shopfront would not result in additional pollution nor would it generate noise over and above the existing relationship which would be detrimental to the amenity of the neighbouring residential properties.

## Other Concerns

- No details regarding the types of shops which would be created.
- A sequential test has not been submitted with the application.
- Proposal represents an overdevelopment of the site.

**Officer Comments:** Revisions have been made to the scheme which is being assessed based on the replacement of the existing shopfront only. As such, details of the proposed shops and the submission of a sequential test is not required. The replacement shopfront, whilst projecting beyond the front elevation of the building, would not introduce any additional footprint. As such, it is considered that it would not result in an overdevelopment of the site.

## Other Matters

### *Contaminated and Unstable Land*

- 10.18 The application site has been identified as being located on land which is potentially contaminated due to its proximity to a historic landfill site. The Council's Environmental Health and Strategic Waste teams have been consulted and have requested a condition and footnote respectively relating to contaminated land. The application relates to the replacement of a shopfront and no ground works are proposed. However, as a precautionary measure, the condition and footnote could be included to the decision notice in accordance with Policy LP53 of the Kirklees Local Plan.

### *Climate Change*

- 10.19 On 12<sup>th</sup> 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.

- 10.20 The proposal is for a replacement shopfront to an existing retail unit. As such, no specific measures are required in terms of the planning application, with regards to carbon emissions.
- 10.21 There are no other matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

- 11.1 To conclude, it is considered that the proposal would have an acceptable impact with regards to visual amenity, residential amenity and highway safety 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 of development (3 years).
2. Development in accordance with the submitted plans.
3. Reporting of unexpected contamination.

### **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=2020/94412>

Certificate A was submitted as part of this application, signed and dated 22.12.2020.