

---

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

**STRATEGIC PLANNING COMMITTEE**

**Date: 26-Jun-2025**

**Subject: Planning Application 2022/93938 Change of use from A1 (business retail and storage) to C3 (residential) 18 flats at first and second floors and external alterations First and Second Floors, Shopping Precinct, New Street and Albion Street, Huddersfield, HD1 2TR**

**APPLICANT**

Arran Bailey, ALB  
Kirklees Ltd

**DATE VALID**

07-Dec-2022

**TARGET DATE**

08-Mar-2023

**EXTENSION EXPIRY DATE**

16-Nov-2023

---

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

[Public speaking at committee link](#)

**LOCATION PLAN**



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

---

**Electoral wards affected:** Newsome

**Ward Councillors consulted:** Yes

**Public or private:** Public

---

## **RECOMMENDATION**

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

### **1.0 INTRODUCTION**

- 1.1 This application seeks full planning permission for the change of use from A1 (business retail and storage) to 18 residential flats, at the first and second storey, with associated external alterations.
- 1.2 The application is presented to the Strategic Planning Committee due to the recommendation including a non-policy compliant S106 package following a viability review exercise. This is in accordance with the council's Delegation Agreement.

### **2.0 SITE AND SURROUNDINGS**

- 2.1 The application relates to the first and second floors within the shopping precinct on New Street and Albion Street within Huddersfield Town Centre. The ground floor is occupied by several retail units. The building's design incorporates large concrete blocks with small, elongated openings in between. To the western elevation, the site overlooks Albion Street Roof Car Park.
- 2.2 The site is located within Huddersfield Town Centre, with the ring road to the south of the site. Neighbouring the northern boundary, are further retail units at ground floor with some residential properties in a high rise block of flats. At first and second floor levels of the retail units are offices and commercial properties. To the east of the site are further retail units, pubs and restaurants at ground floor level, the topography of the site falls towards the east. To the west is Huddersfield Police Headquarters, Council buildings and the Magistrates Court. Small Seeds and Bar Maroc are located to the south of the site and would be retained as part of this development.
- 2.3 The site is not within Huddersfield Conservation Area; however, it is adjacent to it and is within a Primary Shopping Area.

### **3.0 PROPOSAL**

3.1 The application seeks planning permission for the change of use from A1 (business and retail (storage)) to 18 flats within the building's first and second storeys, with associated external alterations. There would be no alterations to the existing ground floor shopping area.

3.2 The proposals comprise:

- 15 x 1 bedroom flat
- 3 x studio flat

No affordable units are proposed as part of the application, by virtue of Vacant Building Credit and following a viability evaluation.

3.3 Units 1-12 are proposed on the first floor and units 13 – 18 on the second floor. Each flat would have 1 bedroom including W/C facilities and a kitchen/living/dining area. The units would have the following internal floor space (measured at 1:50):

- Unit 1: 41 sq.m
- Unit 2: 46 sq.m
- Unit 3: 37 sq.m
- Unit 4: 40 sq.m
- Unit 5: 39 sq.m
- Unit 6: 37 sq.m
- Unit 7: 44 sq.m
- Unit 8: 40 sq.m
- Unit 9: 39 sq.m
- Unit 10: 41 sq.m
- Unit 11: 39 sq.m
- Unit 12: 44 sq.m
- Unit 13: 46 sq.m
- Unit 14: 55 sq.m
- Unit 15: 47 sq.m
- Unit 16: 41 sq.m
- Unit 17: 47 sq.m
- Unit 18: 45 sq.m

- 3.4 The flats would be accessed through one of three existing accesses, two facing east onto New Street and one north onto Buxton Way. Each of these accesses would have a dedicated bin storage area.
- 3.5 With regards to external alterations, these would include the installation of new windows to the rear (western) elevation, and other elevations having existing windows replaced with UPVC casement windows. The window frames would be finished in a grey UPVC.
- 3.7 No on-site parking is proposed.

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

##### 4.1 Application site

There is no recent planning history at the site relevant to the current proposal.

##### 4.2 Surrounding area

Being located within the town centre, there are numerous planning applications within the vicinity, although most are not relevant to the current proposal.

*Buxton House, New Street*

2024/90109: Change of use of takeaway (sui generis) and public house (sui generis) and alterations to convert ground floor to 2 flats(C3), entrance lobby, bike and bin storage; change of use of restaurant (Class E) and alterations to convert level 1 to 2 flats (C3) and bin storage; alterations to level 2 to form one additional flat (C3); alterations and refurbishments to levels 3-11; installation of photo voltaics to roof – Granted

##### 4.3 Enforcement history

None at the site, or within the vicinity relevant to the application.

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

- 5.1 Officers raised initial concerns with the number of units proposed at 34, given the limited outlook proposed and sub-standard level of amenity. As such, the number of units has been significantly reduced to 18. Additional information in respect of air quality, noise, biodiversity and waste have also been sought throughout the course of this application with the updated plans and revised Design, Access and Heritage Statement.
- 5.2 Following submissions from the application which were accessed and accepted by officers, vacant building credit was applied reducing the affordable housing requirement from 4 units to 1 unit.
- 5.3 Notwithstanding the affordable unit reduction, a viability assessment was submitted by the applicant to demonstrate that the affordable housing unit and other financial contribution could not be achieved. An independent viability assessment was undertaken by an independent council assessor (Align) who concluded that the scheme would not be viable in this case. A further conclusion included within the report that the addition of public open space contributions would also be unviable. This will be discussed in more detail within the body of the report.

- 5.4 Based on the negotiations undertaken and the amendments made, along with the additional supporting documents provided, Officers are now in a position to recommend approval.

## **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 27/02/2019).

### Kirklees Local Plan (2019)

- 6.2 The application site is within the defined Huddersfield Town Centre boundary and is within centre's the Primary Shopping Area and the building's ground floor frontage onto New Street is defined Primary Shopping Frontage.

- 6.3 Relevant Local Plan Policies are:

- **LP1** – Achieving Sustainable Development
- **LP2** – Place Shaping
- **LP3** – Location of New Development
- **LP7** – Efficient and Effective Use of Land and Buildings
- **LP11** – Housing Mix and Affordable Housing
- **LP13** – Town Centre Uses
- **LP17** – Huddersfield Town Centre
- **LP20** – Sustainable Travel
- **LP21** – Highways and Access
- **LP22** – Parking
- **LP24** – Design
- **LP26** – Renewable and Low Carbon Energy
- **LP27** – Flood Risk
- **LP28** – Drainage
- **LP30** – Biodiversity and Geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic Environment
- **LP43** – Waste Management
- **LP47** – Healthy, Active and Safe Lifestyles
- **LP51** – Protection and Improvement of Local Air Quality
- **LP52** – Protection and Improvement of Environmental Quality
- **LP53** – Contaminated and Unstable Land
- **LP63** – New Open Space

- 6.4 The following are relevant Supplementary Planning Documents (SPD) or other guidance documents published by, or with, Kirklees Council:

### *Supplementary Planning Documents*

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Affordable Housing and Housing Mix SPD (2023)

## *Guidance Documents*

- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Waste collection, Recycling and storage Facilities Guidance – Good Practice Guide for developers (2017)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions
- Planning Applications Climate Change Guidance (2021)

## National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in December 2024 (updated February 2025) and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 7** – Ensuring the Viability of Town Centres
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making efficient use of land
- **Chapter 12** – Achieving well-designed and beautiful places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

6.6 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

## Climate Change

6.6 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

6.7 On 12/11/2019 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 predates 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

- 7.1 The application has been advertised as a Major development via site notices, neighbour notification letters and within a local newspaper. This was in line with the valid Council's Statement of Community Involvement at the time of publication.
- 7.2 The application was amended throughout the course of the application. As the amendments were considered minor and mostly internal, Officers made the decision to not publicise the amendments.
- 7.3 The end date for public comments was 09/11/2023. As a result of the above publicity, no representations were received.

## **8.0 CONSULTATION RESPONSES**

**The Mining Remediation Authority:** No objection, subject to an advisory note attached to the decision note.

**KC Highways Development Management:** The application can be supported on balance subject to the recommended conditions.

**KC Lead Local Flood Authority:** No objection.

**KC Designing Out Crime Officer:** West Yorkshire Police have no objections to the development proposed, however, design recommendations have been proposed.

**KC Conservation & Design:** No objection to the change of use, as it will have a neutral impact to the setting of the Conservation Area. Officers would suggest however that the new windows should be within a metal frame as opposed to the UPVC frame proposed.

**KC Environmental Health:** In support of the application subject to conditions regarding the noise mitigation.

**KC Waste Strategy:** No objection.

**KC Strategic Housing:** Following Vacant Building Credit calculations, the development is required to provide one affordable unit. The off-site contribution for this unit is £57,631.00.

**KC Ecology:** No objection. The proposed development would have negligible impacts on any ecological receptors.

**KC Landscape:** No objection subject to S106 agreement for an off-site contribution to local Public Open space of £36,234.

**KC Policy:** Comments provided in regard to housing mix, the sites town centre/retail use, open space provision etc. These will be discussed in more detail within the report.

**KC Trees:** No objection.

**KC Housing Growth and Regeneration:** The one bed studio flats proposed are not considered to support the vision for high quality development in Huddersfield town centre. Furthermore, all the proposed dwellings are one bed studio flats for the market, and therefore do not provide a mix of size and tenure.

**Northern Gas:** No objection to the proposal, however, there may be apparatus in the area that may be at risk during construction and should the planning application be approved, then we would require the applicant/developer to contact us directly to discuss. An advisory note will be attached to the decision notice.

**The Environment Agency:** No comments received

**Yorkshire Water:** No comments received

**West Yorkshire Combined Authority:** No comments received

## 9.0 MAIN ISSUES

- Principle of Development
- Impact on visual amenity and the historic environment
- Impact on Residential Amenity
- Impact on Highway Safety
- Other matters
- Viability
- Conclusion

## 10.0 APPRAISAL

### Principle of development

- 10.1 Paragraph 7 of the National Planning Policy Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 goes onto note that achieving sustainable development has three overarching objectives (social, environment and economic), and these are interdependent and need to be pursued in mutually supportive ways.
- 10.2 In line with the National Planning Policy Framework, Policy LP1 of the Kirklees Local Plan declares that: *"...the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."*
- 10.3 Policy LP2 states that: *"All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes..."*

- 10.4 The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

*The Council's five-year housing land supply and the land allocation (housing allocation)*

- 10.5 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

- 10.6 As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. For decision making this means:

*"Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless:*

*(i) the application of policies in this Framework that protect areas or assets of particular importance (NPPF Footnote 7) provides a strong reason for refusing the development proposed ; or*

*(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (NPPF Footnote 9)."*

- 10.7 The Council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer's assessment.

*Town Centre and Residential Development*

- 10.8 Chapter 7 of the NPPF relates to ensuring the vitality of town centres and states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption. Paragraph 90 of the NPPF states that it should be recognised that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

- 10.9 The Huddersfield Blueprint is a Council regeneration strategy which seeks to transform Huddersfield town centre. It sets out a 10-year vision for the improvement of Huddersfield Town centre. Its objectives include increasing the supply of residential development within the town centre. Particularly it is

envisioned for residential development to be of good quality and to achieve a high standard of amenity which, as addressed elsewhere in this report. It established five principles to promote (A vibrant culture, art, leisure and nightlife offer, thriving businesses, a great place to live, improved access, and enhanced public spaces) and six areas of focused development. Bringing Crown House back into a positive use, with an attractive re-design would comply with the five principles. New Street is one of the six focus areas; the proposal would not conflict with the intended implementation, and is envisioned to contribute towards it.

- 10.10 Policy LP13 of the Kirklees Local Plan relates to town centre uses and sets out that within Kirklees, main town centre uses shall be located within defined centres. These consist of principal town centres, town centres, district centres and local centres. The Policy outlines that proposals that have a significant adverse impact on the vitality and viability of a centre, or compromise the role and function of a centre will not be supported.
- 10.11 The site is within Huddersfield Primary Shopping Area (PSA1) and is on a Primary Frontage (PSF2). Local Plan Policy LP14 requires developments within Primary Shopping Areas to maintain active ground floor uses. The policy also requires Primary Shopping Frontages to maintain a primary retail usage at ground floor level. The proposal does not alter the ground floor in terms of usage or appearance and as such is in accordance with Policy LP14.
- 10.12 Furthermore, Policy LP15 of the Kirklees Local Plan relates to residential uses within town centres and sets out that such uses (including student accommodation) will be supported subject to:
- a) the protection of primary shopping areas, primary and secondary shopping frontages, and space for other main town centre uses within the defined centre. Residential proposals in these areas shall normally only be permitted on upper floors, and shall not prejudice existing established uses;*
  - b) the protection of the character of the centre, and the local street scene. Proposals should retain and enhance the design and heritage features of buildings;*
  - c) the protection and retention of existing ground floor uses and active frontages both within and outside the primary shopping area,*
  - d) the protection of the amenity of existing residents and future occupiers of the proposed residential use in accordance with amenity and design policies within the plan, and will in particular consider matters such as privacy, noise and air quality;*
  - e) the provision of space for the storage of sustainable modes of transport such as bicycles, where appropriate charging points of electric vehicles, and access to public transport;*
  - f) the provision of space for vehicular parking which is appropriate to the scale of the proposal, particularly where it would otherwise cause highway and pedestrian safety concerns;*
  - g) provision of affordable housing in accordance with policies set out in the Local Plan; and*
  - h) the provision of refuse storage and collection*

- 10.13 Regarding criteria's a-c, the agent has confirmed that the upper floors are currently vacant, and that none of the upper floors are used for storage other than those excluded from this scheme, which will remain retail. The existing ground floor units are operational as existing without the use of the upper floors and therefore the loss of these to residential would not be detrimental to the continuation of the retail units.
- 10.14 Criteria's d-h will be considered in more detail, where relevant, later within this report.
- 10.15 Regarding Housing Mix, Policy LP11 of the Kirklees Local Plan states that:
- "All proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need"*.
- 10.16 The site is located within Huddersfield South, where the council's Affordable Housing and Housing mix Supplementary Planning Document (SPD) identifies a greater need of 1, 2 and 3 bed homes as opposed to 4+ beds. In this case, the proposal would provide 18 x 1 bed units. Whilst concern has been raised to the lack of mix, which would ideally include 2bed units as well, the agent has confirmed that given the layout of the existing building it makes this challenging. Having reviewed the existing building's constraint layout and as a town centre conversion, officers concur with and, on balance, consider the proposed mixture to be acceptable.
- 10.17 Overall, subject to the quality (to be considered later in this report), planning policy supports suitable residential development in town centres, at first floor level up. Having taken into account the above, and the Council's inability to demonstrate a 5-year housing land supply, weight has been afforded to this development, to re-use the upper floors which are currently vacant and would increase town centre accommodation. Therefore, the principle of the proposed change of use for the first and second floors into 18 units can be supported in principle, subject to an assessment upon the below material considerations.

#### *Sustainable Development and Climate Change*

- 10.18 The site is an existing vacant building, the re-use of which is welcomed and would off-set the need for fresh land and materials to be used on new-builds. Furthermore, being located within Huddersfield town centre, the site is close to various local amenities and facilities. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development could be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.19 It is not considered that specific mitigation measures are required to facilitate the development. Th proposal seeks to adapt an existing vacant building for modern standards retaining its embodied carbon, and is considered acceptable.

## Urban Design and Historic Environment

- 10.20 The site is located adjacent to Huddersfield Town Centre Conservation Area, with the boundary being to the east of the site (sited at the approximate midpoint of New Street).
- 10.21 Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.
- 10.22 Furthermore, LP35 states that
- “development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm.”*
- 10.23 The NPPF offers guidance relating to design in chapter 12 (achieving well designed places) whereby 124 provides a principal consideration concerning design which states:
- “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”.*
- 10.24 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. LP24 states that proposals should promote good design by ensuring: *“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”*.
- 10.25 Existing doors are to be removed and new windows are proposed on the building’s west (rear) facing elevation. This faces onto the Albion Street rooftop car park and would not be visible from any prominent public vista, nor the Conservation Area. These are minor alterations and raise no concerns.
- 10.26 On the other elevations, including the east elevation (front) facing onto New Street and the Conservation Area, no new windows are proposed although the existing fenestration would be re-cased. This is proposed as UPVC.
- 10.27 The size and scale of the windows are considered appropriate and proportionate; however, KC Conservation and Design have raised some concern with the window frames proposed which are to be UPVC. In this setting it is considered that a metal frame would have a much improved visual appearance and a greater longevity than UPVC. As such, an appropriately worded condition would be attached to the decision notice. Subject to this, officers are satisfied that the proposal would have an overall neutral impact on the historic environment and no further urban design implications.

- 10.28 It is therefore concluded that the proposed development would comply with the aforementioned policy, guidance and legislation.

#### Residential Amenity

- 10.29 Section B and C of LP24 states that alterations to existing buildings should:

*“...maintain appropriate distances between buildings” and “...minimise impact on residential amenity of future and neighbouring occupiers.”*

- 10.30 Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.
- 10.31 Further to this Policy LP15 criteria (d) notes that regard should be given to the protection of the amenity of existing residents and future occupiers of the proposed residential use in accordance with amenity and design policies within the plan (and particular consideration should be given to matters such as privacy, noise and air quality).
- 10.32 The proposed alterations to the building and its change of use would not cause any undue harm to any nearby residential properties, in terms of loss of light, loss of outlook or the creation of any overbearing effect due to the minor alterations proposed. The elongated windows would be retained to the eastern elevation and whilst they would have a close relationship with the apartments within the opposite Renaissance Works (15m in separation distance), their existing relationship and narrow size would ensure that there would be no undue overlooking.
- 10.33 The new windows to the western elevation of the building would overlook a car park and therefore wouldn't prejudice any third-party residential amenity. Consideration also needs to be given to the living conditions of the proposed future occupiers of the apartments under this application.
- 10.34 In terms of internal floor space, each unit would exceed the Nationally Described Space Standards which requires 37sq.m for a 1 bedroom 1 storey dwelling. In regards to outlook and light, as originally submitted, concern was raised by officers with regards to the outlook that the units to the eastern side of the building would have, given the design of the existing building and narrowness of the windows. In particular, greater concern was raised to the level of amenity for the occupiers of units 9, and 17, as the windows would directly face part of Buxton House, which is approximately 7.7m away.
- 10.35 By virtue of the existing building's architecture, officers accepted that there is no scope to make these existing openings wider. However, the reduction in the number of units to 18 (from 34), has meant that each unit would have at least 3 openings, all to habitable rooms. Thus, while it is accepted that, the level of outlook and natural light from these windows would not be optimal, on balance, and considering the town centre location of the site and that the application is a conversion, this arrangement can be accepted.
- 10.36 The surrounding environment is another factor which requires attention in relation to the living standards of the proposed occupiers, of note the surrounding noise environment. Paragraph 98 of the NPPF outlines that planning decisions should ensure that new development can be integrated

effectively with existing businesses and community facilities, and where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.

- 10.37 The proposed first and second floor apartments would be above existing retail / commercial premises and adjacent to a first floor pay and display car park, which could result in harmful noise pollution. In addition, the proposed development is adjacent to the busy Castlegate Junction (A62) and A616 within Huddersfield Town Centre, therefore traffic noise also may cause harm.
- 10.38 The application is supported by a Noise Impact Assessment, seeking to address these concerns, which has been reviewed by K.C. Environmental Health. It concludes that noise from the various commercial and licensed premises within the town centre area, including fixed mechanical plant, were not audible above the residual acoustic environment during the survey. K.C. Environmental Health accept these findings, and conclude the development can be made suitable from a noise perspective, subject to conditions requiring glazing specifications and other noise insulation measures are installed. Officers concur with this conclusion, and recommend the advised conditions be imposed.
- 10.39 On balance and subject to conditions, it is considered that the proposed development complies with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

#### Highway Safety

- 10.40 Paragraph 115 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree.
- 10.41 Paragraph 116 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.42 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.43 The level of traffic generation attributed to the proposal is expected to be negligible, by virtue of the scale of the proposal and giving regard to it being an existing building. The application site is located within a central part of Huddersfield Town Centre, adjacent to a commercial and retail area, and as such is in a very sustainable location with many shops and services within a short walk and Huddersfield bus station within 400m and Huddersfield railway station within approximately 700m.

- 10.44 No parking is included within the proposals, however, due to the sustainable town centre location of the site and the numerous public car parks within a short walking distance, this is considered acceptable. It was confirmed that there would be no loss of car parking at the decked public car park with the development in operation.
- 10.45 Due to the town centre location of the proposal site and the access and parking issues that this may cause, officers recommend a condition for a construction management plan (CEMP) that provides details on the proposed access for construction vehicles and the locations of contractor parking and on-site materials storage and site facilities. Another condition requiring details of deliveries and parking for deliveries, and how these will be managed to avoid obstruction of the adopted highway or the spaces on the existing rooftop car park. Each of these is recommended to be controlled via a condition.
- 10.46 Regarding cycle provision, the proposed cycle storage room is 22sqm in size and, while the number of bikes this could accommodate is unknown, the size is considered commensurate to the scale of the proposal. The cycle store is proposed to be located on the first floor or the northern half of the site; both the first-floor location and the fact that 10 of the proposed units would be served by separate accesses, mean the siting of the cycle store is not ideal. However, the constraints of the building must be acknowledged. Without relying on external storage, which raises security and its own suitability concerns, no alternative provision is feasible. Bearing in mind the site's highly sustainable location and strong public transport links, and that the proposal is a town centre conversion constrained by the existing building's layout, on balance the proposed cycle store is considered acceptable as the best option. A condition for details of the cycle storage provision, and its delivery, is recommended.
- 10.47 On the matter of bin storage, this faced a similar issue to bike storage. Adequate provision of refuse storage with suitable arrangements for collection is essential at this site due to it lacking outdoor space where refuse would normally be stored and collected from. The council's Waste Strategy team have advised that the minimum required refuse storage capacity for 18 one-bedroom flats is 1800Ltrs for both residuals and recycling. For the 18 flats proposed, the proposed ground floor residential refuse store(s) are concluded to be adequate in terms of its size and location, although details of arrangements for moving bins on collection day would need to be provided (this responsibility cannot be taken on by the council's refuse collection crews). An appropriate condition is therefore recommended to manage this matter.
- 10.48 Overall, it is concluded that the proposal is acceptable with regard to the matter of access and highway impact. Subject to relevant conditions it has been demonstrated that the proposed development can accommodate sustainable modes of transport and be accessed effectively and safely by all users. It is concluded that the development would not result in a severe cumulative highway impact given the proposed mitigation. It would therefore comply with Policies LP20 and LP21 of the Kirklees Local Plan and guidance within the National Planning Policy Framework

### Ecology and Trees

- 10.49 Policy LP30 of the Kirklees Local Plan states that the council will seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.50 Given the nature of the proposal, there are considered to be no direct or indirect impacts upon local habitat or species, with opportunities for enhancement also negligible.
- 10.51 The submission of this application pre-dates the mandatory 10% net gain requirement imposed by the Environment Act 2021. Regardless, Policy LP30 of the Kirklees Local Plan would be applicable, and has a similar requirement for net gain to be secured, with 10% being the expected figure. However, as the site has an existing habitat value of 0, it is not possible (or reasonable / necessary) to seek biodiversity net gain for the development.
- 10.52 KC Trees have acknowledged that the conversion of the building to residential may increase the pressure to some extent for the trees to be managed along New Street, such that they do not contact the building or windows. However, the benefit of the trees as a result of their shade in this urban area should outweigh the this.
- 10.53 The proposal is considered to comply with Local Plan Policies LP24, LP30, LP32 and LP33 and the aims of the National Planning Policy Framework and guidance documents.

### Planning Contributions and Obligations

- 10.54 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.
- 10.? The proposal meets the threshold to require the provision of affordable housing and public open space contributions.

### *Affordable Housing*

- 10.60 Policy LP11 of the Local Plan and the council's Affordable Housing and Housing Mix SPD requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing.
- 10.61 For this site, a 20% contribution of 18 units would equate to 4 affordable units. For tenure and mixture, the council's Affordable Housing and Housing mix Supplementary Planning Document (SPD) would initially require a housing tenure split of 2 x affordable/social rent, 1 x first home and 1 x intermediate dwelling.

- 10.62 The applicant has claimed Vacant Building Credit applies to the site. The NPPG provides the following overview for VBC:

*National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.*

Paragraph 65 of the NPPF aligns with the above, stating that *'To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount'*.

- 10.63 The applicant has claimed that approximately 78% of the existing building's footprint is vacant (with the remainder being used for retail storage and/or circulation).
- 10.64 The first step for assessing Vacant Building Credit is to determine whether the building / floor space is in fact 'vacant', still in use, or 'abandoned'. Based on the information provided by the applicant, council records, and a site visit, officers are satisfied that the units claimed to be vacant are indeed vacant, and not yet abandoned. Therefore, officers are satisfied that Vacant Building Credit can be applied to the proposal.
- 10.65 After determining whether a site is vacant, the next step is to identify the proportionate reduction of affordable housing (i.e., applying the Vacant Building Credit). Given no new floorspace is being created (i.e., extensions), the 78% of the exiting floor space being vacant can be utilised to reduce the expected affordable housing contribution from four units, to one (rounded up).
- 10.66 In accordance Affordable Housing and Housing mix Supplementary Planning Document (SPD), the expected tenure for the one unit would be affordable rent, although the applicant has claimed that a registered provider is unlikely to want a single unit. Regardless, due to the submission and acceptance of a viability argument (see paragraphs 10.? – 10.?), further consideration on this point is not required.

#### *Public Open Space*

- 10.67 In accordance with Policy LP63 of the Kirklees Local Plan new housing developments are required to provide public open space or contribute towards the improvement of existing provision in the area.
- 10.68 Given the existing logistics of the site, no on-site public space can be provided nor reasonably sought. As such, an off-site contribution of is required, calculated at the value of £36,234.00.

## *Viability*

10.65 The applicant has provided a Viability Assessment seeking to demonstrate that the proposal would not be viable if the affordable unit and off-site public open space contributions were imposed.

10.66 The Government's Planning Practice Guidance provides the following overview of the Viability process:

*Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.*

*Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.*

*In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.*

10.67 The applicant's viability assessment has been reviewed by an independent viability assessor (Align) appointed by the council, to advise officers on this specialist subject. The key matters of dispute identified by Align are as follows:

- Decreased built costs from £1,300 per sqm to £1,214 per sqm, in line with BCIS Median rates.
- Decreased build costs relating to communal areas / circulation space from £1,000 per sqm to £750 per sq. m.

10.68 As a result of their review, based on the above amendments, the council's independent viability assessor has identified that:

- Were the applicant to provide the required contributions (1 affordable dwellings and an off-site open space contribution of £36,234.00), their expected profit return would be 8.98%.
- If providing neither the affordable housing or off-site open space contribution, the applicant can be expected to make a profit return of 14.47%.

- 10.69 The council's assessor concludes that the applicant cannot viably deliver any affordable housing within the scheme or off-site public open space contributions.
- 10.70 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.
- 10.71 Officers acknowledge that town centre viability is a known challenge, both due to associated costs and low rental incomes. Without committing to an exact expected profit level, officers would typically consider between 17.5% and 20% profit to be appropriate in such circumstances. Accordingly, the identified 8.98% profit level associated with paying the contributions would notably fall below both the governments typically advised threshold and officers expectations. Furthermore, given that a complete removal of the identified contributions would net only 14.47%, still below the return deemed acceptable, a reduced offer cannot reasonably be sought.
- 10.72 Officers concur with the assessment undertaken by the independent assessor and accept that the provision of one affordable unit and off-site public open space contribution would result in an unacceptable profit level and result in an unviable scheme. Therefore, officers recommend approval with neither the one affordable unit or off-site public open space contribution.

### Other Matters

#### *Air quality*

- 10.73 The site is located within an Air Quality Management Area (AQMA 9) which encompasses Huddersfield Town Centre and was declared due to exceedances of the annual mean air quality objective for nitrogen dioxide (NO<sub>2</sub>). Therefore, future residents of the site have the potential to be exposed to poor levels of air quality. The first-floor apartments will be located next to an existing pay and display carpark adding to the concerns.
- 10.74 In response to this concern, an Air Quality Assessment has been submitted throughout the course of this application. The report sets out that predicted concentrations of all modelled pollutants would be below the national air quality objectives at all receptor locations and as such no further mitigation measures would be required. This document has been reviewed and accepted by K.C. Environmental Health, who advise no specific conditions are required relating to air quality.

#### *Crime Mitigation*

- 10.75 The West Yorkshire Police Designing Out Crime Officer has made a number of comments and recommendations, particularly with regards to access, lighting and building security. The officer has raised no objection to the proposed development, however, has requested that a condition requiring security measures for the site be attached to any approval.

- 10.76 Subject to the requested condition, it considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan Policy LP24(e).

#### Representations

- 10.77 No representations were received.

### **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken together, constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposal includes the conversion of the vacant first and second floors at the shopping precinct along New Street/Albion Street, within Huddersfield Town Centre. The development would bring these floors back into use, with residential accommodation, at a time when the Council are unable to demonstrate a 5 year land supply and are required to boost housing throughout the borough. Upper floor residential uses can be supported within the Town Centre, as long as they would have no undue impact/implications for existing ground floor retail/commercial uses; officers are satisfied this would not be the case.
- 11.3 The proposed development would secure an acceptable standard of amenity for future occupiers, while causing no harm to nearby residents or the historic environment. Other material planning considerations, including highways and ecology, have also been considered and found to be unaffected.
- 10.4 Viability issues (and the application of Vacant Building Credit) have been demonstrated, and independently assessed. This concluded that the scheme would be unviable, if required to provide policy compliant contributions. Accordingly, the development is recommended for approval, without the typically required contribution(s).
- 11.5 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. Three years to commence development
2. The development to be carried out in accordance with the approved plans and specifications
3. Windows to be metal framed, not UPVC
4. Implementation of agreed noise mitigation measures
5. Evidence of party wall sound insulation testing
6. Construction Management Plan
7. Delivery Management Plan
8. Details of cycle storage and provision.
9. Details of the management and maintenance of the communal refuse storage area by a private management company
10. Crime prevention measures

## **Background Papers**

Application and history files

Available at:

[Planning application details | Kirklees Council](#)

Certificate of Ownership

Certificate A signed.