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**Report of the Head of Planning and Development****STRATEGIC PLANNING COMMITTEE****Date: 19-Dec-2019****Subject: Planning Application 2019/90626 Alterations to convert former building to 25 dwellings (Listed Building within a Conservation Area)  
Thornpark House, 31, Station Road, Batley, WF17 5SU****APPLICANT**

M J Bostan

**DATE VALID**

08-Mar-2019

**TARGET DATE**

07-Jun-2019

**EXTENSION EXPIRY DATE**

28-Jun-2019

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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: Batley East**

Yes

Ward Members consulted

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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 to secure a S106 agreement to cover the following matters:

1. Five of the units to be affordable with a tenure split of 3 being Social Rented and 2 being Sub Market.
2. £11,649 towards Education requirements arising from the development.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

- 1.1 The application is brought forward to the Strategic Planning Committee because it represents a departure from the provisions of the Kirklees Local Plan. The proposal is for residential development on a site that is designated as a priority employment area.
- 1.2 There have been two extensions of time to the application's determination period. The most recent of these expired on 22<sup>nd</sup> October 2019. A further extension of time on the application has been requested until 15<sup>th</sup> January 2020.
- 1.3 There is an associated Listed Building Consent application (reference 2019/90627) that deals with the internal and external alterations to the building. This would be determined under delegated powers following the determination of this planning application.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is a Grade II listed building known as Thornpark House. It lies at the junction of Station Road and Warehouse Street, approximately 250m to the south east of Batley town centre. The building is three storeys in height and constructed of stone. The building is currently vacant and is in a deteriorating condition. The property has a car park to one side that is accessed from Warehouse Street.
- 2.2 The site lies within a predominantly commercial area although there is some residential use immediately opposite the site and a short distance to the north. The site lies within the Station Road, Batley Conservation Area.

## **3.0 PROPOSAL:**

- 3.1 The application is for alterations to convert the building into 25 apartments. The proposals comprise:
- 19no. 2 bed apartments
  - 6no. 1 bed apartments
- 3.2 Eight apartments are provided on each of the ground, first and second floors. A single unit is provided within the basement/lower ground floor.
- 3.3 Parking space is provided within the existing car park to the side of the building, which is accessed from Warehouse Street.
- 3.4 The proposed alterations involve works to the existing window and door openings.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 Associated Listed Building Consent application 2019/90627 – Undetermined

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

- 5.1 Information was submitted in relation to the marketing of the premises in order to seek to address the requirements of Policy LP8 of the Local Plan (Priority Employment Areas).
- 5.2 Amended plans have been provided in an attempt to address comments from the conservation and design officer.
- 5.3 A preliminary bat survey and a flood risk assessment were submitted during the course of the application.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

## 6.2 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development  
LP3 – Location of new development  
LP7 – Efficient and effective use of land and buildings  
LP8 – Safeguarding employment land and premises  
LP11 – Affordable Housing  
LP21 – Highway safety and access  
LP22 - Parking  
LP24 - Design  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity and Geodiversity  
LP35 – Historic Environment  
PLP49 – Educational and health care needs

## 6.3 Supplementary Planning Guidance / Documents:

Highways Design Guide SPD

## 6.4 National Planning Guidance:

NPPF Section 2 - Achieving sustainable development  
NPPF Section 7 - Ensuring the viability of town centres  
NPPF Section 12 - Achieving well - designed places  
NPPF Section 14 - Meeting the Challenge of Climate Change, Flooding and Coastal Change  
NPPF Section 15 - Conserving and enhancing the natural environment  
NPPF Section 16 – Conserving and enhancing the historic environment

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

7.1 The application was advertised by site notices, press advert and neighbour notification letters. In response to the publicity two representations were received. These are summarised below.

- Concerns over parking; this area is very congested at times and it is difficult for HGVs to get into the yards of nearby warehouses. This would impact on the efficient operation of neighbouring businesses. Would support the application if daytime parking restrictions were introduced on Warehouse Street Monday-Friday.
- Lack of clarity to the plans. There is contradictory information within the application in terms of the retention of the existing car park. If parking spaces are lost it will cause problems. The road is already unsafe with parked cars on both sides and used as a rat run.

7.2 Ward members were notified of the application but no comments were received.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

KC Highways DM – No objection subject to condition regarding the parking area

KC LLFA – No objection

### **8.2 Non-statutory:**

KC Environmental Health – No objections subject to conditions relating to noise, odour, reporting of unexpected contamination and

KC Ecological Unit – No objection subject to a condition requiring a bat activity survey

KC Conservation & Design – Support the principle of the change of use in order to secure a viable new use for the building. The alteration to the loading door in the side elevation haven't addressed previous advice. There is a discrepancy between the floor plans and proposed elevations in that the floor plans have been amended to retain an existing doorway to the front elevation but this is not reflected on the elevation drawing.

KC Education – Contribution of £11,649 required towards education provision at Mill Lane Primary School.

## **9.0 MAIN ISSUES**

- Principle of development
- Heritage considerations
- Residential amenity
- Highway issues
- Flood risk and drainage issues
- Representations
- Planning obligations
- Climate change
- Other matters

## **10.0 APPRAISAL**

### Principle of development

10.1 The site forms part of a wider Priority Employment Area (PEA) allocation in the Kirklees Local Plan.

10.2 Priority Employment Areas are based on a wide ranging assessment of the suitability of existing employment sites for continued business and industrial use.

10.3 Through the Local Plan, employment land is to be delivered through a mix of permissions, commitments, potential supply from identified Priority Employment Areas and allocations.

- 10.4 In total the employment land supply for the Kirklees district predicted to come forward during the Local Plan period equates to 193 hectares and leads to an employment oversupply of 18 hectares. This 18 hectares ensures a degree of flexibility is accounted for and will allow for a range of sites for the market and to account for the non-delivery of prime sites. As a broad estimate the potential employment supply from PEA sites is 48 hectares (circa 25% of the total employment land supply).
- 10.5 Existing employment areas will need to be retained if jobs are to continue to be provided in locations which are close to residential areas and reasonably accessible by public transport. Locations with concentrations of business uses which constitute the main employment areas in Kirklees outside town centres, taking into account both scale and location, have been identified as Priority Employment Areas and are safeguarded for continued employment use.
- 10.6 Policy LP8 sets out the Council's approach to safeguarding employment land and premises in Priority Employment Areas. It states:

*Policy LP8*

*Safeguarding employment land and premises*

*1. Proposals for development or re-development for employment generating uses (as defined in the Glossary) in Priority Employment Areas will be supported where there is no conflict with the established employment uses (as defined in the Glossary) in the area. In instances where the site is out of centre and the proposal includes main town centre uses then policy LP13 will need to be applied.*

*2. Within Priority Employment Areas, proposals for redevelopment resulting in a non-employment generating use, or for the conversion or change of use of sites and premises in use or last used for employment, will only be supported where:*

*a. it can be demonstrated that the site or premises are no longer capable of employment use; and*

*b. the proposed use is compatible with neighbouring uses and where applicable, would not prejudice the continued use of neighbouring land for employment.*

- 10.7 The policy is intended to prioritise employment uses over non-employment uses. It recognises the important role PEAs play in providing local employment opportunities and contributing to the local economy, whilst allowing flexibility for change of use if certain criteria are satisfied. The PEAs that have been allocated within the Plan are necessary to meet the council's employment land supply and its ambition to increase jobs growth above baseline trends, achieve expansion of the manufacturing and engineering sector, and attain an employment rate of about 75% by 2031.
- 10.8 The Local Plan supporting text states that all sites allocated as Priority Employment Areas are viable, in terms of style and age of buildings, the internal site arrangement, neighbouring uses and opportunities for expansion and are strategically or locally significant. As such they house well established business and industry sites that warrant protection from changes of use.

- 10.9 The supporting text also states that applicants will need to demonstrate that the site or premises are no longer capable of employment use, the availability of business/industrial sites of equivalent quality in the area, that the proposed use is compatible with neighbouring uses, and where applicable would not prejudice the continued use of neighbouring land for employment. It should be demonstrated that the site has been marketed as a potential site for business and industry and why the building(s) do not fulfil the standards required by modern commercial uses. The period of marketing would need to be agreed by the Council and will be reflective of the significance of the employment asset.
- 10.10 In response to this policy, the applicant has provided a supporting statement which indicates that the building has been largely unoccupied for over 10 years. The present owners purchased the property at auction over two years ago and the original aim was to let the building for commercial purposes. The premises were marketed with various local agents and through their own network.
- 10.11 The applicant identifies the listed status of the building and the lack of demand for office space in this location as major disadvantages to it being successfully let. The condition of the building is considered unsuitable for commercial use, especially as it does not have the benefits that modern office space can provide. The applicant points to the number of vacant buildings in the immediate area and Batley as a whole as evidence for the lack of demand [albeit no specific properties are referenced].
- 10.12 The applicant also contends that the proposed residential use is compatible with adjacent uses and would not prejudice neighbouring commercial premises. The building is detached and surrounded on three sides by highway and distanced from its immediate neighbours by its car park. The applicant goes on to state that residential development has existed opposite the site and other premises within the vicinity have had permission granted for change of use to residential.
- 10.13 Two supporting letters have also been received, one from a local property investor and another from a local letting/estate agent. Both letters state that they have undertaken marketing of the property on behalf of the applicant and that there has not been no real interest in the premises for commercial use but that there is likely to be demand for a residential use. These two parties have recently provided updates to their original letters which confirm that the situation has not changed during the course of the planning application.
- 10.14 Officers have assessed the submitted information. The limitations of the building for continued employment use are acknowledged although it is not considered that the submitted information fully satisfies the requirements of Policy LP8. For example, the information on the marketing of the premises is quite limited and there has been no meaningful assessment of the availability of business/industrial sites of equivalent quality in the area. The principle of the development is therefore contrary to Policy LP8 and to approve the application would therefore represent a departure from the provisions of the Local Plan.
- 10.15 It is however necessary to assess the application in the round, taking into account all material planning considerations. These are discussed in the remainder of this appraisal.

### Heritage considerations

- 10.16 The building is grade II listed and lies within the Station Road, Batley Conservation Area.
- 10.17 Section 16 and 66 of the Listed Building and Conservation Areas Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, that special regard is given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.18 Paragraph 192 of the NPPF states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 10.19 The building appears to have previously been used for light industrial and office purposes but has been largely unoccupied for over 10 years according to the applicant. Officers have been inside the building and it is clear that it is in need of significant works in order to bring it back up to a useable standard.
- 10.20 The proposal represents a viable new use for this listed building which will facilitate the building's restoration and future upkeep. Considerable weight is therefore given to the fact that the proposal will help to conserve this designated heritage asset. Furthermore, as the building lies within a Conservation Area, securing a viable use for the premises will also help to sustain the significance of this part of the Station Road Conservation Area.
- 10.21 Without a viable new use the integrity of the building will be compromised and there are concerns that finding an employment generating use for this building would be difficult, particularly when taking into account the submitted supporting information which highlights the lack of commercial interest in the premises. The age, layout and condition of the building are considered to be significant barriers to it being retained as a commercial building when there are alternative premises that are more suitable for modern business practices. As such the long term upkeep of the building is only likely to come about through the proposed residential scheme.
- 10.22 The significant benefits of the scheme in terms of securing a viable use for the building are therefore to be weighed against the loss of the building's established employment use.
- 10.23 In terms of the proposed external alterations, it is proposed to infill an existing roller shutter door on the side elevation. Conservation advice is that this should be provided as a pair of recessed industrial type timber doors with glazed panels. This in order to retain some of the original character of the building given that this is a historic opening that reflects the building's past industrial use. A revised plan showing this amendment or alternatively a condition requiring revised details is recommended.

- 10.24 The submitted elevations show an existing timber door on the principal elevation being turned into a window. The doorway is an important architectural feature and should be retained. Revised floor plans have been submitted which show this existing doorway being retained but this is not reflected on the elevation drawing. A revised elevation drawing or a condition is necessary to address this matter.
- 10.24 Secondary glazing is appropriate for the principal elevation and the side elevation to Warehouse Street. Double glazing could be provided in the rear elevation. The glazing used will need to be compatible with the noise attenuation requirements referred to below.
- 10.25 Subject to the submission of revised elevations being provided as described above, the application is considered to comply with Policy LP35 of the Local Plan and guidance in the NPPF.

#### Residential amenity

- 10.26 The main residential amenity issue is the compatibility of the proposal with the neighbouring business uses within the PEA and ensuring that the continued use of neighbouring land for employment is not prejudiced and that a good standard of amenity is provided for future occupiers of the development.
- 10.27 Environmental Services have assessed the application and no objections have been raised subject to measures to protect the occupiers of the development from noise and odour. This would involve suitable glazing and ventilation. Conditions are therefore recommended to deal with this.
- 10.28 There is some residential development within the vicinity of the site, although none of it falls within the PEA. The nearest existing residential use is opposite the site on Station Road; the separation distances between windows are such that officers do not consider that there would be any significant impact on privacy. The other nearest housing is further away to the north of the PEA.
- 10.29 An assessment of the size of the units has been undertaken in relation to the Government's 'Technical housing standards – nationally described space standard'. This paper relates to internal space within new dwellings and does not carry any specific weight when determining applications, although it does provide some useful context.
- 10.30 A proportion of the proposed units fall below the minimum gross internal floor areas as set out within the nationally described space standard. There are concerns that some of the units would not provide a good standard of amenity for future occupiers given their size. As such the applicant has been asked to review the space provided within each unit and submit a revised layout plan. It is considered that some of the units should be turned from two bedroom units into one bedroom units and for some of the one bedroom units to be amalgamated to form a single two bedroom unit. As a consequence the overall number of units would be reduced slightly. An update will be provided on this matter within the agenda update.

### Highway issues

- 10.31 The application has been assessed by Highways Development Management and no objections have been raised. The property has its own car park and it is considered that this provides adequate space for parking and bin storage. A condition is recommended regarding surfacing, drainage and marking out within the car park.
- 10.32 The site lies within a sustainable location, being within easy walking distance of the town centre and its transport links and amenities.

### Flood risk and drainage issues

- 10.33 The site is at low risk of flooding from main rivers and there is no obvious risk from surface water flooding. Surface water would continue to drain as per the existing situation with no additional surface water being created. The Lead Local Flood Authority raises no objection to the application.

### Representations

- 10.34 Two representations have been received. An officer response to these is provided below.
- Concerns over parking; this area is very congested at times and it is difficult for HGVs to get into the yards of nearby warehouses. This would impact on the efficient operation of neighbouring businesses. Would support the application if daytime parking restrictions were introduced on Warehouse Street Monday-Friday.
  - Lack of clarity to the plans. There is contradictory information within the application in terms of the retention of the existing car park. If parking spaces are lost it will cause problems. The road is already unsafe with parked cars on both sides and used as a rat run.

**Officer response:** The existing site car park is to be retained and Highways Development Management consider this to be acceptable for the proposed residential development. Notwithstanding, it would not be possible to seek to impose parking restrictions through this planning application.

### Planning obligations

- 10.35 Policy LP11 of the Local Plan seeks to secure 20% of the total number of dwellings as affordable on residential schemes. Five of the proposed units are therefore sought as affordable houses and this is to be secured via section 106 agreement.
- 10.36 The School Organisation service have advised that a contribution of £11,649 towards primary school provision is required by this development.

### Other Matters

- 10.37 A preliminary bat roost inspection survey has been carried out on the building. This is accepted by the Ecology Unit and a condition requiring further survey work during the bat activity season (May-September) is recommended for the part of the building that has been identified as having moderate bat roost potential.

- 10.38 To mitigate the impact on air quality and climate change, it is considered that electric vehicle recharging points should be provided. A condition is recommended requiring details of a scheme for their provision.

#### Climate change

- 10.39 Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin decision-taking.
- 10.40 The proposal involves the re-use of a building which represents an efficient use of land and mitigation is to be secured through electric vehicle charging points. The application is therefore considered to address climate change issues.

### **11.0 CONCLUSION**

- 11.1 The proposal is for the change of use to a non-employment use within a PEA. Policy LP8 allows for such changes of use subject to certain criteria. The applicant has not provided sufficient information to fully demonstrate compliance with Policy LP8 and the proposal therefore represents a departure from the Local Plan.
- 11.2 The application building is listed and it also lies within a Conservation Area. Considerable weight is given to securing a viable new use for this building and on balance it is considered that this outweighs the loss of the established employment use on the site.
- 11.3 The proposed use would not prejudice the operation of existing businesses within the PEA subject to measures to protect future occupiers from noise and odour nuisance.
- 11.4 There are concerns with the size of some of the units and an amended plan is awaited addressing this issue. An update will be provided to members on this within the agenda update.
- 11.5 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.
- 11.6 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. Time limit (3 years)
2. Development in accordance with approved plans
3. Revised details of roller shutter door to side elevation and retention of doorway to front elevation
4. Scheme for surfacing, lighting and marking out of car park
5. Reporting of unexpected contamination
6. Bat activity survey and mitigation if necessary
7. Scheme for electric vehicle charging points
8. Noise report and mitigation
9. Odour report and mitigation

### **Background Papers:**

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90626>

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