



Appeal Decision

Site visit made on 23 June 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 7 August 2025

Appeal Ref: APP/Z4718/W/25/3364001

1 Morley Lane, Milnsbridge, Kirklees, Huddersfield HD3 4NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Christopher Worsley against the decision of Kirklees Council.
 - The application Ref is 2024/62/93345/W.
 - The development proposed is change of use at ground floor level to form 2 no. residential apartments.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal site is within the Milnsbridge Conservation Area, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The National Planning Policy Framework (the Framework) also requires great weight should be given to the conservation of heritage assets. These include conservation areas.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the site and surrounding area, including the Milnsbridge Conservation Area (the CA);
 - the effect of the proposed change of use on the vitality and viability of the Milnsbridge District Centre; and,
 - whether the proposed development would provide suitable living conditions for future occupants, with regard to daylight and outlook.

Reasons

Character and appearance

4. The Milnsbridge Conservation Area Appraisal (the CAA) describes Milnsbridge as a historic valley floor settlement based on a bridging point over the River Colne. The CAA goes on to describe the historic commercial centre of the settlement along Market Street, either side of the bridge crossing the river, as making a positive contribution to the heritage significance of the CA.

5. The appeal site is part of a triangular block of development formed by Market Street, Morley Lane and Yates Lane. The appeal property occupies a prominent corner plot at the junction of Market Street and Morley Lane, close to the historic bridge crossing the river, that provides a strong connection with other commercial properties along the length of Market Street and onto Morley Lane.
6. Properties fronting onto both sides of Market Street, between the junctions with Morley Lane and Yates Lane, and properties fronting onto Morley Lane are in commercial use. Properties are built up to the pavement edge, and several have large shop-front windows. As such, the area has a consistent and continuous commercial character and appearance.
7. Much of the appeal property was formerly a public house and, as such, has smaller windows than neighbouring shops at ground floor level. However, overall, it has the distinct character and appearance of a commercial property and at the time of my site visit was occupied and in use as a shop. Hence, the appeal property contributes positively to the character and appearance of the area. Moreover, the location, appearance, character and historic use of the appeal property contribute positively to the heritage significance of the CA.
8. The proposal seeks to change the use of a substantial part of the ground floor of the property, 1 Morley Lane, from retail use to residential use through subdivision into two apartments. The remainder of the property, furthest from the junction of Market Street and Morley Lane and referred to by the Council as 33-35 Market Street, would be divided from the proposed residential element and retained as a separate shop unit at ground floor.
9. Therefore, a large proportion of the property would become subject to the comings and goings of everyday domestic life and would assume a residential character and appearance through that use and occupation. This would result in an inconsistent appearance with other properties in the street scene and a break in the consistent and continuous commercial character of Market Street and Morley Lane, even with 33-35 Market Street retained as a shop.
10. The proposal would preserve some of the external features of the building, such as the fenestration and some signage. However, while the preservation of these external features would partially reflect the historic use of the property it would not constitute an enhancement of the heritage significance of the CA. Moreover, the proposed replacement signage would not correspond with the proposed use of the property and would result in a disharmonious relationship between the appearance of the building and its use and occupation.
11. Hence, the proposed development would have a harmful effect on the commercial character and appearance of the site and the surrounding area and fail to preserve or enhance the character or appearance of the CA. As such, the proposal would result in a moderate degree of less than substantial harm to the CA.
12. In summary, the proposal would harm the character and appearance of the site and surrounding area, including the heritage significance of the CA. Therefore, it would not accord with Policies LP15(b) and LP35 of the Kirklees Local Plan, February 2019, (the LP) which together seek to ensure development conserves those elements which contribute to the significance of the CA and protects the character of the town centre, and the local street scene.

Vitality and viability

13. The appeal site is within the Milnsbridge District Centre. The current commercial use of the property is commensurate with the town centre location. Moreover, the current commercial use of the property accords with the historic development and character of the property and surrounding area, as described above, and provides visual continuity along Market Street and onto Morley Lane.
14. Policy LP13 of the LP highlights the need for town centres to provide a mix of uses that complement each other while retaining a strong retail core, that serves the local community, businesses and visitors.
15. Policy LP15 of the LP acknowledges that residential development within a town centre can be acceptable subject to meeting specific criteria, including protecting the character of the town centre. In this respect, I do not consider the effect of development is limited to visual effects but also includes change in the character of a property and the surrounding area.
16. As I have found that the proposed development would result in harm to both the character and appearance of the property and surrounding area, I also find that the scheme would not meet the criteria laid out in Policy LP15(b) as it would fail to protect the character of the town centre, and the local street scene.
17. The loss of a main town centre use and to residential use would not complement the commercial character of the Milnsbridge District Centre and the commercial uses found therein. Furthermore, the pronounced break in the commercial character of the street would erode the vitality of commercial activity along the street and have a negative effect on the viability of neighbouring commercial properties. As such, I find that the proposed development would have a significant adverse effect on the vitality and viability of the town centre.
18. The appellant has provided little evidence supporting the argument that the property is not commercially viable, beyond stating that they currently receive a below market value rental income from the property. They have drawn my attention to there being 15 out of 58 commercial properties standing vacant within the town centre. However, they draw no conclusion from this figure in relation to the appeal property and neither can I.
19. Hence, I conclude that the proposal would result in a significant adverse effect on the vitality and viability of the Milnsbridge District Centre. In this regard, the proposed development would conflict with Policies LP15 and LP13 of the LP, which requires development protects the character of a town centre and local street scene and avoids adverse impacts on vitality and viability of a town centre.

Living conditions

20. The plans show the arrangement of two apartments within the appeal property. Apartment 1 would be wholly to the ground floor area with all habitable rooms served by windows to either Morley Lane or the courtyard to the rear of the property.
21. Apartment 2 would have the living area and bedrooms to the ground floor and served by windows to Market Street and Morley Lane. However, the kitchen and dining area would be located in the basement of the building. As such, there would

be no natural light to nor outlook from this habitable room. Hence, the proposed scheme would result in unacceptable living conditions for future occupants.

22. Therefore, I conclude that the proposed development, with regard to the unacceptable living conditions provided by apartment 2, would conflict with Policy LP24 of the LP, which requires development provides a high standard of amenity for future occupants.

Other Matters

23. The appellant has drawn my attention to a permission granted at 50 Market Street for the change of use from a former bank to residential use (Ref: 2023/91211). The permission at 50 Market Street differs from this appeal in terms of the context of the site. Furthermore, the development at 50 Market Street benefitted from a real prospect of a fallback scheme being delivered that the Council considered to be more harmful. As details of a fallback scheme with a greater than theoretical possibility of taking place is not before me, I find the matter of fallback and any comparison with 50 Market Street not determinative to this appeal.
24. I also note the plan included in the appellant's statement showing that the layout of apartments could be arranged to avoid the use of the basement area as a habitable room to apartment 2, thereby avoiding the unacceptable living conditions this would amount to. However, neither is this the scheme before me nor would it address the harm I have found to the significance of the CA or the harmful effect on the vitality and viability of the town centre.

Planning Balance

25. The Council have indicated that they can only demonstrate 3.96 years housing land supply. In the absence of a five-year supply of deliverable housing sites, paragraph 11 d) of the Framework explains that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. I have considered the contribution of the proposal to the supply of housing, set against the positive approach to housing growth within the Framework. However, in the context of the overall housing needs of the area, the benefits of two apartments in this location would be limited.
27. Paragraph 215 of the Framework states that less than substantial harm to the significance of a designated heritage asset (in this case the CA) should be weighed against the public benefits of the proposed development.
28. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. Given my findings above, I find the harm to the CA to be less than substantial, but nevertheless of considerable importance and weight.
29. As such, any positive benefits in regard of housing provision would be significantly and demonstrably outweighed by the harm to the significance of the CA, the harmful effects on the vitality and viability of the town centre and by the unsatisfactory living conditions for future occupants of apartment 2 that would arise from the development.

Conclusion

30. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude the appeal should be dismissed.

C Mayes

INSPECTOR