



**Town and Country Planning (Development Management Procedure) (England)
Order 2015**

PLANNING PERMISSION FOR DEVELOPMENT

Application Number: 2017/70/92874/E

To: Chris Finn
Chris Finn Architect
Bowling Green House
38 Rythergate
Cawood
Selby
YO8 3TP

For: Owens Developments Ltd

In pursuance of its powers under the above-mentioned Act and Order the KIRKLEES COUNCIL (hereinafter called "The Council") as Local Planning Authority hereby permits:-

VARIATION OF CONDITION 17 (FOOTPATH) ON PREVIOUS APPLICATION 2014/91791 FOR OUTLINE APPLICATION FOR DEMOLITION OF EXISTING SCHOOL BUILDING AND ERECTION OF RESIDENTIAL DEVELOPMENT

At: HEATON AVENUE FIRST AND NURSERY SCHOOL, WESTCLIFFE ROAD, CLECKHEATON, BD19 3EP

In accordance with the plan(s) and applications submitted to the Council on 17-Aug-2017 [together with those plans and application(s) submitted to the Council on 04-Jun-2014 and incorporated into planning permission ref no. 2014/49/91791/E granted on 09-Jan-2015] and subject to the condition(s) specified hereunder:-

1. The development hereby permitted shall be begun no later than 6 August 2021.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of affordable housing within the development have been submitted to and agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- a) the number and type of affordable housing units to be provided;
- b) the layout and disposition of the units affordable housing to be provided;
- c) the timescale for the implementation and completion of the affordable housing units;
- and,
- d) the mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.

Reason: To ensure the provision of affordable housing in accordance with the requirements of Policy LP11 of the Kirklees Local Plan.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, B, C, or E of Part 1 of Schedule 2 to that Order shall be carried out.

Reason: In the interest of visual amenity and to protect the amenity of adjoining occupiers, in accordance with Policy LP24 of the Kirklees Local Plan.

4. The boundary treatments of the site shall be provided in accordance with the details shown on plan ref 2587-01-04C before all the dwellings are occupied and shall thereafter be retained in accordance with the approved details.

Reason: In the interest of visual amenity, in accordance with Policy LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework.

5. The external walling and roofing materials used in the construction of the development shall be Ashington Red Multi (Weinerberger), stone to harmonise with the residential properties on Bramhope Road and Westcliffe Road, and Marley Modern Interlocking Smooth Grey Concrete Tiles, and thereafter retained as such.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework.

6. Remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy (ref H17074RSMS) dated August 2019. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise approved in writing by the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure that the site can be made safe and stable for the proposed development, given the legacy of past coal mining, in accordance with government guidance contained within Chapter 15 of the National Planning Policy Framework.

7. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To ensure that the site can be made safe and stable for the proposed development, given the legacy of past coal mining, in accordance with government guidance contained within Chapter 15 of the National Planning Policy Framework.

8. The development shall then be completed in accordance with the approved drainage details demonstrated on Plan Ref: 2587-01-02A received in relation to application ref: 2017/91214 before the dwellings are first brought into use and thereafter retained.

Reason: To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental well-being and to accord with Policies LP24 and LP28 of the Kirklees Local Plan.

9. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal and to accord with Policy LP24 of the Kirklees Local Plan.

10. The following measures shall be incorporated into the development in accordance with the details shown on plan ref 2587-01-04C:

- 3 new sparrow terraces shall be created, integral to the new dwellings within the site and to be located on suitable (northern aspect) elevations;
- 6 bat tubes similar to the Schweglar 1FR boxes shall be created, integral to the new dwellings within the site and located on suitable (southern aspect) elevations;
- Any lighting scheme should be designed to minimise light spillage into tree corridors.

The approved roosting and nesting features shall thereafter be retained.

Reason: In the interests of the biodiversity of the site, in accordance with government guidance contained within Chapter 15 of the National Planning Policy Framework.

11. The development shall not be brought into use until a footway 2.0m metres wide has been provided to the full Bramhope Road frontage to the development site, in accordance with details which have been submitted to and approved in writing by the Local Planning Authority before development commences on the superstructure of the dwellings hereby approved. The footway so approved shall thereafter be retained.

Reason: In the interests of highway safety and to allow for safe pedestrian access to and from the site, in accordance with Policy LP21 of the Kirklees Local Plan.

12. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864), as amended or superseded; and thereafter retained.

Reason: In the interests of highway safety and to achieve a satisfactory layout, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

13. Prior to construction commencing on site, a plan indicating the routing to and from the site for construction traffic, including the times of working shall be submitted to and approved in writing by the Local Planning Authority. Within the site, all construction arrangements shall be carried out in accordance with the details shown on Plan Ref: 2587-01-05. The approved arrangements shall be thereafter retained throughout the period of construction.

Reason: In the interests of highway and pedestrian safety, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours, Mondays to Fridays

08.00 and 13.00 hours, Saturdays

With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

NOTE: The removal of any vegetation should be undertaken outside of the bird breeding season, March to September inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

NOTE: Contractors working at the site should be made aware that there is always the possibility of bats being found during the development.

The removal of features under which bats might shelter should be removed with care by hand.

If bats are found, work must cease immediately, and the advice of a licensed bat worker sought.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 414700) to obtain this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Site Location Plan			17.08.17
Bat Survey	July 2014		01.08.14 (in relation to 2014/91791)
Coal Mining Risk Assessment			15.09.14 (in relation to 2014/91791)
Ecology Survey	May 2014		04.06.14 (in relation to 2014/91791)
Design and Access Statement			04.06.14 (in relation to 2014/91791)
Boundary Treatments and Landscaping Plan	2587-01-04C		22.02.18
Drainage Layout	2587-01-02A		03.04.17 (in relation to 2017/91214)
Site Operations Plan	2587-01-05		10.04.19
Site Layout Plan		F	22.02.18
Phase 1 Geoenvironmental Report		October 2017	07.08.19
Phase 2 Geoenvironmental Appraisal		October 2017	07.08.19
Remediation Strategy	H17074RSMS	August 2019	21.08.2019

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Discussions took place during consideration of the application, with respect to the status of both this and the accompanying application.

Building Regulations Approval is required for most work involving building operations and/or structural alterations. It is the applicant's responsibility to find out if the work permitted by this planning permission needs approval under the Building Regulations, and if necessary to submit an application. If you are not the applicant can you please ensure the applicant is aware of this requirement. Contact Building Control on Telephone: (01484) 221550 for more information.

Development within a Coal Mining Area

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

The application has been publicised by notice(s) in the vicinity of the site. It is respectfully requested that the notice(s) now be removed and responsibly disposed of to avoid harm to the appearance of the area

Appeals to the Secretary of State

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If an enforcement notice is served or has been served relating to the same or substantially the same land and development as in your application and if you want to appeal against the local planning authority's decision on your application, then you must do so within:
 - i) 28 days from the date of this notice where the enforcement notice has been served,
 - ii) 28 days of the date of service of the enforcement notice or,
 - iii) the specified period starting from the date of this notice,whichever period expires earlier.
- If you want to appeal against your Local Planning Authority's decision then you must do so within the specified period, starting on the date of this notice.
- The "specified period" is 12 weeks where the development relates to a "minor commercial application" as defined within the Town and Country Planning (Development Management Procedure) Order 2010 (as amended), or 6 months in any other case.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>. Further information on the Planning Appeal process can be found online at the Planning Inspectorates website <https://www.gov.uk/government/organisations/planning-inspectorate>.
- You must use the correct Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the type of application that the appeal relates to so they can send you the appeal form you require.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Please note, only the applicant possesses the right of appeal.

Purchase Notices

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

An important part of improving our service is to review your feedback on the way that we have dealt with your planning application(s). Please take a couple of minutes to email your comments to dc.admin@kirklees.gov.uk so that we can work on continually improving our customer service. Thank you.

Dated: 23-Sep-2020

Signed:



Karl Battersby
Strategic Director Economy and Infrastructure

Decision Documents

The decision notice indicates which documents relate to the decision. These documents can be viewed online at the Planning Services website at www.kirklees.gov.uk/planning, and by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2017/70/92874/E .

If a paper copy of the decision notice or decided plans are required please email dc.admin@kirklees.gov.uk or telephone 01484 414746 with the application number. There may be a charge for this service.

All communications should be sent to one of the following address:

E-mail: dc.admin@kirklees.gov.uk

Write to: Planning Services
Investment and Regeneration
PO Box B93
Civic Centre III
Off Market Street
Huddersfield
HD1 2JR
