



Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2018/62/92216/W

To: Gary Swarbrick,
ELG Planning
Gateway House
55, Coniscliffe Road
Darlington
DL3 7EH

For: Alfa Homes

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

ERECTION OF 5 DWELLINGS

At: LAND OFF, NETHERLEY DRIVE, MARSDEN, HUDDERSFIELD, HD7 6HL

In accordance with the plan(s) and applications submitted to the Council on 17-Jul-2018. The reasons for the Council's decision to refuse permission for the development are:

1. The site is allocated as Provisional Open Land within the Kirklees Unitary Development Plan and Safeguarded Land within the emerging Kirklees Publication Draft Local Plan. While the Council is unable to demonstrate a five year housing land supply, because the site has been through Appropriate Assessment the tilted balance through the presumption in favour of sustainable development does not apply. The benefits of the proposal, including the housing provision, does not in this situation justify the loss of Provisional Open Land. To approve the development would be in breach of Policy D5 of the Kirklees Unitary Development Plan and Policy PLP6 of the Kirklees Publication Draft Local Plan.
2. The proposed dwellings, by virtue of their mass, scale and height, would fail to respect the character of the surrounding area. Furthermore the proposal proposes significant retaining works and walls which would also fail to harmonise with the surrounding built environment. To approve the development would be in breach of Policies BE1 and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.

3. The proposed development seeks the pumping of surface water as a drainage solution. Insufficient justification has been provided to evidence that alternative methods of drainage have been appropriately explored and discounted. To approve the scheme would be contrary to Policy PLP28 of the Kirklees Publication Draft Local Plan and the aims and objectives of Chapter 14 of the National Planning Policy Framework.

4. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of Policy H18 of the Kirklees Unitary Development Plan, Policies PLP4 and PLP47 of the Kirklees Publication Draft Local Plan and the aims and objectives of Chapter 8 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	18 5153 00		17.07.2018
Block Plan	18 5153 02		17.07.2018
Proposed Grouped Plans and Elevations	18 5153 05		17.07.2018
Proposed Grouped Plans and Elevations	18 5153 06		17.07.2018
Boundary Details	18 5153 07		17.07.2018
Levels Strategy	1003 – 002		17.07.2018
Supporting Information	Flood Risk Assessment		17.07.2018
Supporting Information	Preliminary Ecological Appraisal		17.07.2018
Supporting Information	Preliminary Geo-Environmental Risk Assessment		17.07.2018
Supporting Information	Planning Statement		17.07.2018
Supporting Information	Transport Assessment		17.07.2018

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 Planning Authority have, 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.

Officers expressed concerns over the principle of development, in addition to design and drainage. Furthermore, because of the site's size, a Public Open Space contribution would be sought. Despite negotiations on the matter officers were unable to support the principle of the proposed development and the applicant requested that the proposal be determined as submitted.

In accordance with the Council's delegation agreement the application was taken to the Huddersfield Planning Sub-Committee on the 13th of December, 2018, where members resolved to support officer recommendation for refusal.

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 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: 17-Dec-2018

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 2018/62/92216/W .

If a paper copy of the decision notice or decided plans are required please email planning.contactcentre@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: planning.contactcentre@kirklees.gov.uk

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