



Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2019/62/94035/E

To: AN Designs Ltd
28, Headfield Road
Savile Town
Dewsbury
WF12 9JE

For: Y Patel

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:-

CHANGE OF USE OF PART OF OFFICE/RETAIL AREA TO CLASS E HOT
FOOD/CAFE/TAKE AWAY

At: PETROL FILLING STATION, 452, BRADFORD ROAD, BATLEY, WF17 5LW

In accordance with the plan(s) and applications submitted to the Council on 13-Dec-2019. The reasons for the Council's decision to refuse permission for the development are:

1. The location of the proposed flue, as shown on *Site Plan, Existing floor layout plan, Elevations and Roof Plan* by AN Architectural Design dated Dec 2019 (ref: YASIN 111 PL-01) received Oct 2020 would be set approximately 2m away from the first-floor windows of the neighbouring building. This would subject the occupants of neighbouring building to emissions and noise generated by the extract system. Thus, the proposal does not provide a high standard of amenity for neighbouring occupiers. The proposal is contrary to policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

2. Insufficient information has been provided regarding a kitchen extract ventilation scheme. The proposal has scope to harm the environment via pollution and thus the omission of an acceptable kitchen extract ventilation scheme means it cannot be determined whether the proposal adequately protects and improves environmental quality. The proposal is contrary to policy LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework, due to insufficient information.

Plan Type	Reference	Version	Date Received
Grouped Plans and Elevation	on <i>Site Plan, Existing floor layout plan, Elevations and Roof Plan by AN Architectural Design dated Dec 2019 (ref: YASIN 111 PL-01)</i>	2	23/10/2020

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 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. Throughout the process Officers have requested that the proposed flue position be repositioned for amenity reasons relating to neighbouring buildings. The originally proposed position, as shown on the plan *Site Plan, Existing floor layout plan, Elevations and Roof Plan by AN Architectural Design dated Dec 2019 (ref: YASIN 111 PL-01) received Dec 2019*, would subject neighbouring residents to the rear of the proposed development to unreasonable levels of odour and noise generated by the extract system. The proposed repositioned flue shown on *Site Plan, Existing floor layout plan, Elevations and Roof Plan by AN Architectural Design dated Dec 2019 (ref: YASIN 111 PL-01) received Oct 2020* would be set no more than 2m away from the first-floor windows of the neighbouring building. This would subject the occupants of the neighbouring building to emissions and noise generated by the extract system, which is unacceptable. The agent has been informed several times throughout the process to relocate the flue to the front of the building and agreed to do so. Furthermore, officers requested a kitchen extract ventilation scheme to be submitted. The agent submitted a scheme in March 2020. However, this was insufficient. Since then, despite the agent agreeing to submit a suitable kitchen extract ventilation scheme and numerous requests by officers for the amended plans and additional information, this has not been submitted. The agent has not responded to emails from officers. Accordingly, the application is hereby determined based on the plans and information submitted to date, notably the *Site Plan, Existing floor layout plan, Elevations and Roof Plan by AN Architectural Design dated Dec 2019 (ref: YASIN 111 PL-01) received Oct 2020*.

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: 14-Apr-2021

Signed:



David Shepherd
Strategic Director Growth and Regeneration

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 2019/62/94035/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
