Town and Country Planning Act 1990

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

PLANNING PERMISSION FOR DEVELOPMENT

Application Number: 2021/62/91172/W

To: Mr Brown,
Cubic Expression UK Ltd
37a, Wakefield Road
Fenay Bridge
Huddersfield
HD5 0AN

For: Mr Brown, Cubic Expression UK 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:-

CHANGE OF USE FROM FORMER PETROL FILLING STATION, CAR AND VAN REPAIRS/PART SALES AND CAR SALES PITCH TO HOT FOOD TAKE-AWAY (SUI GENERIS)

At: CROWN MOTORS, WATERLOO ROAD, WATERLOO, HUDDERSFIELD, HD5 0AH

In accordance with the plan(s) and applications submitted to the Council on 22-Mar-2021, subject to the condition(s) specified hereunder:-

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan.

3. The areas for the parking of vehicles as shown on the submitted layout drawings 4, 4A and 4B shall be marked out before the development is first brought into use, and all areas shown to be used for the parking and manoeuvring of vehicles on the above plans shall thereafter retained as such and kept free of all obstructions to their use by vehicles.
Reason: To ensure that a satisfactory layout is provided in the interests of highway safety and to accord with the aims of Policies LP16 (d&e) LP21, and LP22 of the Kirklees Local Plan.

4. The proposed new markings ("No Entry", "Turn Left", at the Waterloo Road access, "No Entry" at the Wakefield Road access, and "Delivery Vehicles Only"), signage, new kerbing and flow plates, as shown on Figure 4, Rev A, and set out in the Technical Note, shall be provided or installed before the development is first brought into use and shall thereafter be retained as such. All gates shall be sliding or be hung so as to only open inwards, and fencing shall be no more than 1.0m high above the adjacent carriageway.
Reason: To ensure that a satisfactory layout is provided in the interests of highway safety, to discourage misuse of the site as a short-cut, to ensure that inter-visibility is maintained and the flow of traffic not interfered with, and to accord with the aims of Policies LP16(e) LP21, and LP22 of the Kirklees Local Plan.

5. The site shall not be open to customers, nor shall there be dispatches of food for delivery to customers, outside the hours of 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays. Other than pre-opening and post-closing staff activities, no other activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 0700 and 2300 Monday to Sundays.
Reason: To prevent the development giving rise to loss of amenity to residential properties in the vicinity of the site arising from noise and disturbance at unsocial hours and to accord with the aims of Policies LP16(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

6. The use hereby permitted shall not begin until details of the installation and/or erection of any kitchen extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions have been submitted to and approved in writing by the Local Planning Authority and the works specified in the approved scheme have been installed. Such works shall thereafter be retained, operated at all times when the takeaway is in use and maintained in accordance with the manufacturer's instructions.
Reason: This is a pre-commencement condition to ensure that the proposed development does not give rise to loss of amenity to residential properties in the vicinity of the site arising from odours and to accord with the aims of Policies LP16(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

7. Before the development is first brought into use, a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include: -

a) an assessment of all of the noise emissions from the proposed development

b) details of existing background and predicted future noise levels at the boundary of 4 Waterloo Road, Waterloo, Huddersfield, HD5 0AH and 5-13 Waterloo Road, Waterloo, Huddersfield, HD5 0AH.

c) a written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation.

The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: This is a pre-commencement condition to ensure that the proposed development does not give rise to loss of amenity to residential properties in the vicinity of the site arising from noise disturbance, and that any necessary measures to attenuate noise are installed before first use, and to accord with the aims of Policies LP16(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

8. Before the installation of external artificial lighting commences a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include the following information: -

a) The proposed hours of operation of the lighting

b) The location and specification of all of the luminaires

c) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated.

d) The predicted vertical illuminance that will be caused by the proposed lighting when measured at windows of any properties in the vicinity.

e) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site

f) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.

The external artificial lighting shall be installed and operated thereafter in accordance with the approved scheme.

Reason: To ensure that a suitable lighting scheme is achieved that does not cause harm to visual or residential amenity arising from glare, light spill or light trespass, and to accord with the aims of Policy LP24(a&b) and LP52 of the Kirklees Local Plan.

9. Before the development is first brought into use, details shall be submitted to and approved in writing by the Local Planning Authority of a closed-circuit television (CCTV) scheme shall be submitted to and approved in writing by the Local Planning Authority. The CCTV scheme thus approved shall be installed within the site before the development is first brought into use and shall be thereafter retained and operated in accordance with the manufacturer's instructions at all times when activities are being carried out on site.

Reason: This is a pre-commencement condition to ensure that adequate measures protecting future staff, customers and other site users from being exposed to an unacceptable risk of crime or the fear of crime are provided, and to accord with the aims of Policies LP16(c) and LP24(e) of the Kirklees Local Plan, Chapter 8 of the National Planning Policy Framework, and Section 17 of the Crime and Disorder Act.

10. A minimum of two electric vehicle recharging points shall be installed within the site (one to serve delivery vehicles and one to serve staff cars) before the development is first brought into use. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

Reason: In accordance with the aims of Policy 24(d & v) of the Kirklees Local Plan and government guidance on air quality mitigation, outlined within the Planning Practise Guidance and Chapter 14 of the National Planning Policy Framework, so as to promote infrastructure which encourages modes of transport with low impact on air quality.

11. Before the development is first brought into use, an Operational Management Plan (OMP) shall be submitted to and approved in writing by the Local Planning Authority. It shall include the following elements:

- Times of servicing (i.e. deliveries of supplies to the site);
- Methods of monitoring and recording the number and percentage of food orders made and delivered or collected through each of the following methods during the first 12 months of operation: delivery, click and collect, and drive-in/pick-up.

The operation of the proposed development, monitoring and recording of findings, shall be in full accordance with the OMP for the first 12 months of operation and, in the case of servicing times, at all times thereafter.
Reason: This is a pre-commencement condition to ensure that the amount of vehicular traffic associated with the proposed use can be effectively monitored at all times during its first year of operation in the interests of highway safety, so as to accord with the aims of Policies LP16(e) and LP21 of the Kirklees Local Plan.

12. At the end of 12 months starting from the date when the development is first brought into use, a Monitoring Report based on the OMP shall be submitted to the Local Planning Authority for their approval in writing. If the findings of the Monitoring Report, in the view of Planning Officers, show a significant deviation from the estimated breakdown of ordering and collection methods as set out in the applicant's Technical Note (35% click and collect, 65% delivery, and 5% drive-in/pick-up), to the extent that the use generates significantly more customer journeys to the site than anticipated, then within two months of the approval of the Monitoring Report, an Action Plan shall be submitted to and approved in writing by the Local Planning Authority. The Action Plan shall describe the methods that will be used to encourage more customers to opt for methods that will result in fewer vehicles calling at the site (primarily delivery, secondarily click and collect).
Reason: To ensure that vehicular traffic associated with the proposed use can be minimised so as to prevent the development giving rise to any material increase in highway safety problems, and to accord with the aims of LP16(e) and LP21 of the Kirklees Local Plan.

Note – Condition 8 (Artificial lighting)
The proposed design levels of illuminance should be shown to be appropriate for the intended use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with the "Guidance Notes for the Reduction of Obtrusive Light" by the Institution of Lighting Professionals: 2011 www.theilp.org.uk. The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for an Environmental Zone (i.e. E0 to E4).

Note – Condition 12 (Monitoring Report and Action Plan)
Should the stated reasons for the Action Plan be triggered, then no operational changes or physical works will be required with regard to the operation of the takeaway, only methods to promote more uptake of home delivery (primarily) and click and collect (secondarily).

Note – Construction Site Working Times
It is recommended that noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays
08.00 to 13.00hours, Saturdays

With no noisy activities on Sundays or Public Holidays.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Note – Food safety

It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 221000.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			23-Mar-2021
Location plan			23-Mar-2021
General internal layout as proposed			05-Nov-2021
Collection zone visuals and layout			05-Nov-2021
Swept path analysis	4	A	08-Nov-2021
Swept path analysis	4A	A	05-Nov-2021
Alternative with closure of Wakefield Road	3		05-Nov-2021
Parking and stacking for collection lane	4B	A	05-Nov-2021
Design & access statement			23-Mar-2021
Sequential test and further justification for proposal			10-May-2021
Aerial photograph circa 1981			19-Oct-2021
Technical note			05-Nov-2021
Additional supporting letter			25-Nov-2021

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. The case officer undertook negotiations with the applicant to obtain a sequential test so as to ensure compliance with local and national Town Centres policy as set out in Chapter 7 of the NPPF and Policies LP13 and LP16 of the Local Plan and secure a detailed access and parking layout in the interests of highway safety.

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 Tel No: (01484) 221550 for more information.

It is the applicant's responsibility to find out whether any works approved by this planning permission, which involve excavating or working near public highway and any highway structures including retaining walls, will require written approval from the Council's Highways Structures Section. Please contact the Highways Structures Section on Tel No. 01484-221000 Ext 74199 for further advice on this matter.

Details Reserved by Condition

- **This permission has been granted subject to conditions. Some of the conditions may require you to submit further details. These conditions normally contain the wording "*submitted to and approved in writing by the Local Planning Authority*".**

- **You can apply online for approval of these details at the Planning Portals website at www.planningportal.gov.uk. Alternatively the forms and supporting guidance for submitting an application can be found online at www.kirklees.gov.uk/planning.**

- **This Authority recognises the need to ensure that you are able to develop the site as effectively and flexibly as possible. However, at the same time it must ensure that development is in accordance with the terms of the planning conditions and legal agreement and the expectations of elected members and local residents set through the decision process.**

- **You should note the triggers for compliance with the conditions of this planning permission. This Authority is committed to processing applications to discharge conditions in a timely manner. It is important to ensure that submissions are made as far in advance of the trigger to allow time for adequate consultation, discussion and in some circumstances publicity.**

- **It is important that applications to discharge conditions are accompanied by sufficient information to enable this Authority and its consultees to fully consider and determine the proposals. Whilst officers will endeavour to negotiate solutions, failure to provide a comprehensive submission may result in delay and refusal of the application.**

- **If you commence work without discharging conditions you are at risk of enforcement action and invalidating your permission if the planning condition is a pre commencement condition.**

Development within a Coal Mining Area

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Digital Infrastructure: Fibre To The Property (FTTP)

Access to affordable and reliable broadband is necessary for Kirklees' residents, businesses, and visitors to take advantage of the growing digital economy and 'digital by default' services. Fibre optic cables direct to a property (FTTP) is the most reliable way of delivering high speed broadband connectivity and allows for gigabit internet speeds. Access to high quality digital infrastructure provides the foundations for, amongst other things:

- **Economic prosperity – workforces that are digitally-literate enables business to thrive.**
- **Digital literacy – digital literacy and skills increase employability and people can exploit the internet for transactional, social, entertainment and learning purposes.**
- **New services – digital delivery can lower costs and provide innovative public and health services more conveniently.**

It is therefore advised that digital infrastructure, including FTTP, and its benefits for the development be considered from the earliest feasible stage. Methods include working with Internet Service Providers to install digital infrastructure alongside other utilities or providing pre-infrastructure allowing for speeder installation at a later date.

To discuss the benefits that FTTP may have for your development, please contact Carl Tinson in Kirklees Council's Digital Team at carl.tinson@kirklees.gov.uk

Note: The provision of fibre infrastructure is often available from certain telecommunications providers free of charge for development over a certain scale, provided that sufficient notice is given. Notice periods are typically at least 12 months prior to first occupation. In some cases, providers may request a contribution from the developer.

Note: Where no telecommunications provider has been secured to provide fibre infrastructure by the time of highway construction, it is advised that additional dedicated telecommunications ducting is incorporated alongside other utilities to enable the efficient and cost effective provision of fibre infrastructure in the future.

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 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 relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within:**

  i) 28 days of the date of service of the enforcement notice, or
  ii) within the specified period, starting on 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: **19-Jan-2022**

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 planning applications and decisions' and by searching for application number 2021/62/91172/W .

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