



KIRKLEES COUNCIL

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)**

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39**

REFUSAL OF CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Number: 2021/CL/91443/E

To: Farrar Bamforth Associates
51, Trinity Street
Huddersfield
HD1 4DN

For: Accept Properties Ltd

FIRST SCHEDULE CERTIFICATE OF LAWFULNESS FOR PROPOSED
EXTENSION TO INDUSTRIAL BUILDING

SECOND SCHEDULE Primrose Farm, Crossley Lane, Mirfield, WF14 0NR

**KIRKLEES COUNCIL HEREBY REFUSES TO CERTIFY THAT ON 09-APR-2021 THE
OPERATIONS DESCRIBED IN THE FIRST SCHEDULE THERETO IN RESPECT OF
THE LAND SPECIFIED IN THE SECOND SCHEDULE HERETO AND EDGED RED ON
THE SUBMITTED PLANS WOULD BE LAWFUL WITHIN THE MEANING OF SECTION
192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), FOR THE
FOLLOWING REASONS:**

This application seeks a Lawful Development Certificate for the addition of an industrial extension to a building that was not used for industrial purposes at the time of the application and that does not currently appear to have planning permission to be used for this purpose either. In these circumstances the use of the proposed extension for industrial purposes could not be deemed ancillary to the existing use of the host building. Article 3(5)(b) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). removes any permission granted under the Order for any development if in the case of permission granted in connection with an existing use, that use is unlawful.

In any event the extension would also fail to fully meet the criteria for such industrial extensions as set out within Class H, Part 7 of Schedule Two of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). This is because of its proposed position in relation to the currently recognised boundary of the curtilage and because it would take up land that is currently used for the parking and turning of vehicles. The extension would constitute 'development' as defined by Section 55 of the Town and Country Planning Act 1990. Under the provisions of Section 57 of the same Act and in the absence of any planning permission the proposed development would not be lawful for the purposes of planning control.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Existing Site Layout Plan and Elevations	19D08-FBA-ZZ-XX-DR-A-0201	P01	09/04/21
Location Plan, Proposed Site Layout Plan and Elevations	19D08-FBA-ZZ-XX-DR-A-0701	P02	09/04/21

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 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 and agent in dealing with the application. However, on the basis of the available information it is considered that the proposal will constitute development, as defined by Section 55 of the Town and Country Planning Act 1990, and will require formal planning permission.

If this application has been publicised by notice(s) in the vicinity of the site, please would you now remove the notice(s) and dispose of it/them responsibly to avoid harm to the appearance of the local area.

NOTES:

- (1) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse an application for a certificate of lawfulness of development, in whole or part (including any modification or substitution of the description of the use, operations or any other matter), s/he may appeal to the Secretary of State in accordance with Sections 195 and 196 of the Town and Country Planning Act 1990 (as amended). 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>.
- (2) This decision is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended)

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: 01-Dec-2021

Signed:



David Shepherd
Strategic Director Growth and Regeneration

Address to which all communications should be sent:-

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