



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/91818/E

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

For: A Shaw

FIRST SCHEDULE CERTIFICATE OF LAWFULNESS FOR PROPOSED
ALTERATIONS TO STABLES TO CREATE DWELLING
FORMING ANNEX ACCOMMODATION ASSOCIATED WITH
PRIMROSE FARM, CROSSLEY LANE, MIRFIELD, WF14 0NR

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

**KIRKLEES COUNCIL HEREBY REFUSES TO CERTIFY THAT ON 05-MAY-2021 THE
USE & 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:**

Based on the information provided it is considered on the balance of probability that the use of the stable as annex accommodation associated with Primrose Farm is not ancillary to the enjoyment of the dwellinghouse. This is by reason of the lack of functional and physical dependency the stable would have on the existing dwellinghouse to sustain its existence. The stable could operate as an independent dwellinghouse and cannot therefore be considered subservient to the dwellinghouse or be ancillary to the enjoyment of the dwellinghouse. It would therefore amount to a separate dwelling and constitute a material change of use defined in section 55(1) of the Town and Country Planning Act 1990. Moreover, the works to create new openings in the building cannot benefit from any general planning permission under Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the building is not required for a purpose incidental to the enjoyment of the dwellinghouse and would be contrary to Class E(1)(i).

Plans and specifications: -

Plan Type	Reference	Web ID	Date Received
Application form	-	870810	05/05/2021
Location Plan	-	870813	05/05/2021
Existing plans	-	870814	05/05/2021
Proposed plans	-	870815	05/05/2021
2008 decision notice	-	870816	05/05/2021

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 at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former 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 new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is 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 land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine 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, excavations for 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.

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

If 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

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: 29-Jun-2021

Signed:



David Shepherd
Strategic Director Growth and Regeneration

Address to which all communications should be sent:-

**Planning
Investment & Regeneration Service
PO Box B93
Civic Centre 3
Off Market Street
Huddersfield
HD1 2JR**