Town and Country Planning Act 1990

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

PLANNING PERMISSION FOR DEVELOPMENT

Application Number: 2022/62/91835/W

To: Andrew Keeling
AKPlanning
147, Lane Top
Linthwaite
Huddersfield
HD7 5SG

For: R CLIFFORD

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:-

DEMOLITION OF EXISTING STRUCTURES AND ERECTION OF TWO NEW COMMERCIAL BUILDINGS

At: BARGATE WORKS, BARGATE, LINTHWAITE, HUDDERSFIELD, HD7 5QW

In accordance with the plan(s) and applications submitted to the Council on 08-Jun-2022, 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 Policies LP1, LP2, LP3, LP7, LP21, LP22, LP24, LP27, LP28 LP30, LP34, LP51, LP52 and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. Notwithstanding the submitted plans, the profiled sheeting to buildings A and C shall be finished in a dark green. The buildings shall thereafter be retained with this finish.
Reason: In the interests of visual amenity, to preserve the significance of the Linthwaite Conservation Area and to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. Prior to the development being brought into use, all areas indicated to be used for access and parking on the hereby approved plans shall be marked out and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or any successor guidance. These areas shall be so retained, free of obstructions and available for their intended use.
Reason: In the interests of highway safety and to achieve a satisfactory layout, to avoid an increase in flood risk through surface water run-off in accordance with Local Planning Policies LP21, LP22, LP28 and LP34 of the Kirklees Local Plan and Chapters 9 and 14 of the National Planning Policy Framework.

5. Prior to construction at the site, a plan detailing the positioning and location of a bat box (Schwegler 1FN or similar) shall be submitted to and approved in writing to the Local Planning Authority. The development shall thereafter be constructed in line with the submitted details.
Reason: To provide an enhancement to biodiversity in line with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

6. Prior to development commencing, an 'invasive non-native species protocol' shall be submitted to, and approved in writing by, the Local Planning Authority. The protocol shall detail the containment, control, and removal of Himalayan Balsam and Japanese Knotweed on site. Thereafter the development shall be undertaken in accordance with the approved scheme.
Reason: To prevent the spread of non-native invasive species, to safeguard and enhance the function of the application site, in line with the aims and objectives of Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition to ensure ecological measures are capable of being fully integrated into the construction phase.

7. The combined noise from any vehicle movements, work activity, fixed mechanical services and external plant and equipment from the premises shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. “Rating level” and “background sound level” are as defined in BS 4142:2014+A1:2019.
Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

8. In the event that contamination, or the presence of coal (or workings) not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or
(b) the Local Planning Authority has confirmed in writing that remediation measures are not required.
The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

9. Prior to the first occupation of the buildings hereby approved, one electric recharging point shall be installed within the dedicated parking. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps. The electric vehicle charging point installed shall thereafter be retained.
Reason: In the interest of supporting low emission vehicles and to accord with Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 9 and 15 of the National Planning Policy Framework.

NOTE: Environmental permit – advice to applicant
This site lies adjacent to the River Colne which is a designated main river. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit https://www.gov.uk/guidance/flood-risk-activities-environmental-permits or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

NOTE: Nesting birds/breeding season:
All wild birds, their young, their eggs and active nests are protected under law. It is an offence to damage a nest intentionally while it is in use or being built. Non-urgent major tree work involving tree removal/reduction and hedge cutting operations should not be undertaken during the bird nesting/breeding season, which is considered to be from the beginning of March to the end of August however, depending on seasonal temperatures, some birds do continue breeding into September

NOTE: Use of waste on site
The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.
We recommend that developers should refer to:

- the position statement on the Definition of Waste: Development Industry Code of Practice;
- The waste management page on GOV.UK

NOTE - Waste to be taken off-site

Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

NOTE: Noisy construction related activities shall not take place outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours, 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: Land contamination

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- BS 10175:2011+ A2:2017 *Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers,*

NOTE: Protection of a Drinking Water Supply – Advisory
The proposed development is within <150m away from properties which rely on alternative sources of water for their drinking water supply. Any development must ensure that the proposed development does not have an adverse impact on existing private water supplies and/or the collection grounds of private water supplies which could constitute as a potential risk to human health.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location plan, existing site plan and sections	01	-	26th May 2022
Proposed site plan	02	-	26th May 2022
Existing and proposed elevations and site plans	03	-	26th May 2022
Heritage Impact Assessment by AK Planning Town Consultancy	-	-	9th June 2022
Bat Survey by Middleton Bell Ecology dated 27th September 2022	MBE/BAT/2022/88/01	-	30th September 2022

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.

In this instance, no amendments were requested, however, a bat survey was submitted on 30th September 2022 which addressed Officer reservations.

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.**

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/appeal-planning-decision. 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: 01-Nov-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 2022/62/91835/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: Kirklees Council
Planning and Development Service
PO Box 1720
Huddersfield
HD1 9EL