



Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2022/60/92194/W

To: Georgina Daintith,
Walsingham Planning
Brandon House
King Street
Knutsford
WA16 6DX

For: C R Muller, Muller Property Group

**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:-**

At: OUTLINE APPLICATION FOR ERECTION OF CARE HOME (USE CLASS C2)
OF UP TO 60 BEDS WITH ASSOCIATED ACCESS
LAND ADJ, 21, THOMAS STREET, LINDLEY, HUDDERSFIELD, HD3 3JJ

**In accordance with the plan(s) and applications submitted to the Council on
28-Jun-2022. The reasons for the Council's decision to refuse permission for
the development are:**

1. The Council adopted the Kirklees Local Plan on 27 February 2019 for all planning purposes. The following policy statements are considered relevant to the proposed development:

Kirklees Local Plan (February 2019)
Policy LP21 – Highways and access

National Planning Policy Framework (July 2021)
Chapter 9 – Promoting sustainable transport
Paragraph 111

Highway Design Guide SPD (November 2019)

The proposed development is considered not to be in accordance with the requirements of the Development Plan, and it has been concluded that there are no

material considerations which would justify or outweigh the non-compliance with the relevant policies of the adopted Development Plan. It is the considered opinion of the Local Planning Authority that:

2. The proposed site access arrangements do not provide a safe means of access to and from the site for all road users, including emergency and servicing/delivery vehicles, as the proposed visibility splays at the Brian Street site entrance would be significantly detrimentally affected by the prevalence of on-street parking. The servicing/delivery arrangements at the north of the site are inadequate given the requirement to cross an existing layby and full height kerb to access the site. No demonstrably feasible servicing/delivery access arrangements have been submitted which would not prejudice the free flow of traffic on the site's surrounding streets. Without the provision of safe visibility splays and the provision of on-street car parking mitigation measures on Brian Street and Thomas Street (such as waiting time restrictions) it is the considered view of Officers and Kirklees Council Highways Development Management (as the Local Highway Authority) that the proposal would lead to an unacceptable impact on highway safety and is therefore contrary to Policy LP21 of the adopted Kirklees Local Plan, Highway Design Guide Supplementary Planning Document, and National Planning Policy Framework (Chapter 9) Paragraph 111. Officers note the brownfield nature of this site and its previous uses and consider that the site could be developed with a safe means of access for all road users, however the applicant has been unwilling to amend the application in light of the technical consultee advice received for works which are necessary to make the proposed development acceptable in planning terms.

3. There are no material considerations advanced in favour of the development that would outweigh the identified conflict with the Development Plan.

This decision refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, bylaw, order or regulation.

NOTE: Whilst the Local Planning Authority has been unable to work positively and proactively with the applicant to secure approval of the proposed development, the decision notice sets out clearly the reasons for the refusal and why an approval has not been possible for this particular scheme.

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 speedier 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.

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.

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 [the Planning Inspectorate website](#)
Further information on the Planning Appeal process can be found online at [the Planning Inspectorates website](#)
- 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: 17-Mar-2023

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 [Kirklees Planning Website](https://www.kirklees.gov.uk/planning), by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2022/60/92194/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
