



Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2022/62/91911/E

To: Timothy Chesnutt,
Brewsterbye Architects
5, North Hill Road
Headingley
Leeds
LS6 2EN

For: Urban 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:-

ERECTION OF RESIDENTIAL DEVELOPMENT CONSISTING OF 48
DWELLINGS WITH ASSOCIATED HIGHWAYS AND LANDSCAPING

At: LAND AT, CLIFF HILL, DENBY DALE, HUDDERSFIELD, HD8

In accordance with the plan(s) and applications submitted to the Council on 31-May-2022. The reasons for the Council's decision to refuse permission for the development are:

1. Insufficient information has been provided to satisfy the Local Planning Authority that the risks arising from land contamination resulting on the site can be adequately mitigated under the proposed land remediation strategy. Likewise insufficient understanding of the residual impacts of the site remediation, inclusive of an incomplete understanding of the site's characterisation, do not provide sufficient comfort to allow the proposed site remediation to be undertaken subject to appropriately worded planning conditions. The current submission therefore incurs unacceptable risks that could cause harm to people and/or the environment contrary to Kirklees Local Plan Policy LP53 as well as National Planning Policy Framework Paragraph 183 (clauses a, b and c).

2. It has not been demonstrated that the proposed development would be environmentally feasible or acceptable nor that the proposal would provide local or national benefits that would outweigh the resultant residual environmental impacts of developing the site for the purposes of winning and working minerals (coal) resulting from the site's remediation. Indeed, the proposed site remediation strategy creates unknown residual environmental impacts that have not been adequately assessed. There are therefore significant concerns with the proposed development in respect of the potential for adverse impacts on water resources, ground gas pathways, human health (noise & air quality in particular) as well as residential amenity more broadly. No overriding community benefits are identified which would make the extraction of coal acceptable from the site. Overall, the proposal is found to be contrary to mineral planning policy with particular regard to Kirklees Local Plan Policies LP36, LP51 and LP52 as well as National Planning Policy Paragraphs 211 (clauses b & c) and 217 (clauses a and b).

3. The proposed development layout does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently for a residential purpose. As such the proposal is contrary to Policy LP7 of the Kirklees Local Plan and Paragraph 124 of the National Planning Policy Framework as it does not seek to maximise housing delivery and is not overridden by mitigating reasons with regard to development viability, compatibility with its surroundings or meeting local housing needs. The lack of a sufficient density would also further undermine the Local Planning Authority's housing delivery target, which is subject to a Housing Delivery Test Action Plan.

4. Proposed plots 35 and 36 are at a topographical level and distance from existing properties at 2 and 3 Springhead Gardens whereby their rear windows and garden terraces would significantly overlook and reduce the privacy of the existing residential properties at significant detriment to residents' amenity. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.

5. It has not been demonstrated, through a lack of information, that the site's internal estate road is designed or is able to be designed to an acceptable layout/adoptable standard that would be safe for use by pedestrians and private vehicles or is operationally feasible to be serviced by a refuse collection vehicle. The proposed development is therefore contrary to the guidance contained within the Highways Design Guide SPD, as well as Policy LP21 – Highways and Access – of the Kirklees Local Plan (with specific regard to clauses a, d, e and f).

6. Insufficient information has been provided to evidence that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues in relation to the northern elevation of Cruck Cottage, given that the proposed dwellinghouses are set at a higher topographical level and within the 21m facing separation distance from the rear of the existing dwellinghouse. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.

7. Planning obligations directly related to the development have been identified by the Local Planning Authority as being necessary to make the development acceptable in planning terms. These obligations relate to delivery of on-site affordable housing provision, a financial contribution to provide educational capacity for increased school capacity in the local area, a financial contribution to off-set open space typology shortfalls, a financial contribution to offset biodiversity loss and provide a 10% biodiversity net gain, a financial contribution for the encouragement of sustainable travel alongside provision of requisite management of drainage infrastructure and shared spaces serving the proposed development. The terms of a legal agreement to secure these obligations has not been agreed and the weight of viability evidence provided by the applicant does not have full regard to the change in site circumstances (concerning the extraction of minerals) since the Kirklees Local Plan was adopted. By consequence the application is contrary to Policies LP11, LP20, LP28, LP30, LP49 and LP63 of the Kirklees Local Plan.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location Plan	571/16(01)001		01/06/2022
Proposed Site Plan	571/16(02)010	ZA	11/01/2023
Swept Path Analysis for RCV – Turning Head			01/12/2022
Swept Path Analysis for RCV - Tracks around bends			01/12/2022
Swept Path Analysis for RCV - Site access tracks			01/12/2022
RETAINING WALL LOCATION PLAN	571/16(02)010	A	31/01/2023
Soft Landscape Proposals	SF 3282 LL01		30/01/2023
Proposed prior extraction and remediation of voids & remnant coal seams (Harland Resources Ltd)	HRL/CH/PE22-01	A	23/01/2023
PLAN 1 – Existing Site Levels	CH/WP-01	-	23/01/2023
PLAN 2 – Cuts 1 & 2 Excavated, temporary coal processing areas established and overburden heaps constructed	CH/WP-02	-	23/01/2023
PROPOSED BOUNDARY TREATMENTS	571/16(02)005	D	11/01/2023
BASIC CULVERT AND DITCH SECTIONS	57116 BBA XX XX DR A 0251	P01	11/01/2023
PROPOSED SEPARATION DISTANCE PLAN	57116 BBA XX 00 DR A 0207	P01	14/12/2022
PROPOSED BIN COLLECTION PLAN	571/16(02)009	-	14/12/2022
PROPOSED EV POINTS PLAN	571/16(02)008	-	14/12/2022
PROPOSED POS AREAS	571/16(02)006	B	14/12/2022

Plan Type	Reference	Version	Date Received
PROPOSED EXTERNAL MATERIALS AND LANDSCAPING STRATEGY	571 16(02)004	C	14/12/2022
PROPOSED LEVELS	571/16(02)003E	-	14/12/2022
SEPARATION SECTIONS	571 16 BBA XX XX DR A 0250	P01	14/12/2022
PROPOSED STREET SCENES	571 16 BBA 01 XX DR A 0250	P01	14/12/2022
PLOT 37 GARAGE - Floor Plan and Elevations	571 16 BBA XX 00 DR A 0231	P01	14/12/2022
SINGLE GARAGE - Floor Plan and Elevations	571-16 BBA XX 00 DR A 0230	P01	14/12/2022
BLOCK TYPE JJ - Floor Plan and Elevations	571 16 BBA 01 XX DR A 0226	P01	14/12/2022
TYPE H1 - Floor Plan and Elevations	571 16 BBA 01 XX DR A 0224	P02	14/12/2022
TYPE E4- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0223	P02	14/12/2022
TYPE E2- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0221	P02	14/12/2022
TYPE E1- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0220	P02	14/12/2022
BLOCK TYPE II- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0216	P02	14/12/2022
BLOCK TYPE GG- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0215	P02	14/12/2022
BLOCK TYPE DD- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0214	P02	14/12/2022
BLOCK TYPE CC- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0213	P02	14/12/2022
BLOCK TYPE BAA- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0212	P01	14/12/2022
BLOCK TYPE BA- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0211	P02	14/12/2022
TYPE J- Floor Plan and Elevations	571 16 BBA 01 XX DR A 0210	P07	14/12/2022
TYPE I - Floor Plan and Elevations	571 16 BBA 01 XX DR A 0209	P05	14/12/2022
Type H - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0208	P05	14/12/2022
TYPE G - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0207	P05	14/12/2022
TYPE F - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0206	P06	14/12/2022
TYPE E - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0205	P05	14/12/2022
TYPE D - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0204	P05	14/12/2022
TYPE C - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0203	P04	14/12/2022

Plan Type	Reference	Version	Date Received
TYPE B - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0202	P03	14/12/2022
TYPE A - Floor Plan and Elevations	571-16 BBA 01 XX DR A 0201	P02	14/12/2022
Kirklees Refuse Vehicle Tracking	10-5610-TR001	-	22/11/2022
Proposed Drainage Layout	10-5610-500	C	03/11/2022
Proposed Street Visuals 1 to 12	571/16 (02) 040, 041, 042, 043, 044, & 045	-	
Document Type	Reference	Version	Date Received
Biodiversity Metric 3.1 auditing and accounting for biodiversity calculation tool	SF3282	-	30/01/2023
Biodiversity Net Gain Assessment	SF3282	Original – Jan 2023	30/01/2023
Ecological Impact Assessment	SF3282	Original – Dec 2022	14/12/2022
Gas Monitoring Report / Letter	By Rogers Geotechnical Services – C2206/21/E/3228	-	11/01/2023
Flood Risk and Drainage Strategy	By Ward Cole consulting engineers – 10/5610	C	03/11/2022
Arboricultural Survey	SF3282	A	18/10/2022
Statement for Outline of, Remediation Cliff Hill, Denby Dale, Huddersfield	By Rogers Geotechnical Services – C2206/21/E/3401- Letter (12th September 2022)	-	30/09/2022
Transport Assessment	By Via Solutions (May 2022) – Project No. 21115	1	19/08/2022
Road Safety Audit	By Via Solutions (May 2022) – Project No. 21115 – 24.05.2022	-	06/06/2022
Framework Travel Plan	By Via Solutions – March 2022 - 21115	-	06/06/2022
Remediation Statement	By Harland Resources Ltd – dated 11/07/2022	-	08/08/2022
Design and Access Statement Parts 1 & 2	By Brewster Bye Architects – May 2022	-	15/06/2022
Planning Statement	By DPP Planning – June 2022 – R001/4394LE	-	15/06/2022
Air Quality Assessment	By Air Quality Consultants - J10/13073A/10/1/F1 – 5 June 2022	-	07/06/2022

Plan Type	Reference	Version	Date Received
Geo-Environmental Risk Assessment Report	By Geo-Risk+ - SF-8329067 – 15 November 2021	-	01/06/2022
Phase 2 Geo-Environmental Report	By Rogers Geotechnical Services - C2206/22/E/3401 – 25/05/2022	-	06/06/2022
Phase 1 Desk Top Coal Mining Risk Assessment	By Arc Environmental – Project No. 21-719	-	06/06/2022
Initial Ecological Review	SF3282	-	01/06/2022
Noise Assessment	By Noise Consultants – May 2022 - J10-13073A-20A/1/F1	-	01/06/2022
Archaeological Desk Based Assessment	By On Site Archaeology – OSA22DT08	-	01/06/2022

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The applicant worked with the Local Planning Authority to addresses issues associated with this application, particularly in relation to matters of contaminated land and minerals development. The application was subsequently refused by the Council's Heavy Woollen Planning Sub-Committee for the reasons set out in this decision notice.

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 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: 21-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 2022/62/91911/E .

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
