



Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2023/62/90209/E

To: Hamish Gledhill,
Acumen Designers & Architects Ltd
Headrow House
Old Leeds Road
Huddersfield
HD1 1SG

For: Acumen

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: ERECTION OF DETACHED DWELLING AND TWO STOREY WORKSHOPS
LAND OFF, THORNHILL ROAD, DEWSBURY, WF12 9QE

In accordance with the plan(s) and applications submitted to the Council on 30-Jan-2023. The reasons for the Council's decision to refuse permission for the development are:

1. The applicant has failed to demonstrate, through submission of sufficient information regarding flood risk (site specific Flood Risk Assessment, Sequential Test and Exception Test), that the potential impact on the site, set within Flood Zones 3, 3a and 3ai, as demonstrated on the Environment Agency's Flood Map for Planning, can be mitigated for the lifetime of the development. The submission of a satisfactory sequential and Exception Test are a statutory requirement in this instance. The proposal is likely to result in harmful flood risk to the dwelling and commercial development proposed. Given the omission of an acceptable sequential and Exception Test, the proposal is, thus, contrary to Policy LP27 of the Kirklees Local Plan, the guidance set out in National Planning Policy Guidance and the aims of Chapter 14 of the National Planning Policy Framework.

2. The applicant has failed to demonstrate, as required by Policy LP8 of the Kirklees Local Plan, that the land where the dwelling is proposed is no longer capable of delivering an employment generating use. As such, the proposed development would result in undue loss of priority employment land and would fail to comply with Policy LP8 of the Kirklees Local Plan and the aims of Chapter 11 of the National Planning Policy Framework.

3. The proposed dwelling by virtue of its scale and design, would not be in keeping with the character of the wider street scene. A dwelling of this scale, design and materials would appear incongruous in this location and as such would be detrimental to the visual amenity of the area. The scheme therefore fails to comply with Policy LP24(a) of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

Plans and Specifications Table:

Plan Type	Reference	Version	Date Received
Location Plan	2794 LOC		30/01/2023
Existing Site and 3D	2794 (100)01		30/01/2023
Proposed Commercial Units Plans & Elevations	2794 (100)04		30/01/2023
Proposed Dwelling Plans and Elevations	2794 (100)03		30/01/2023
Proposed Site Plan	2794 (100)02		30/01/2023
Floor Risk Assessment	B24955-JNP-XX-XX-RP-C-1001		30/01/2023
Planning Statement	2794	January 2023	07/03/2023
Planning Statement Addendum	2794	May 2023	12/05/2023
Terminal schedule of dilapidations and wants of repair	BD/JM/23004		12/05/2023
Elemental building cost estimate: rev 0 new build commercial units	2794_ACU(SK)02D, 2794_ACU(100)04		12/05/2023

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 has, 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.

Officers raised concerns with the agent regarding the principle of development and the harm to flood risk. Extensive discussions were undertaken with the applicant, agent and planning officers regarding these matters. The applicant provided the following:

- Planning Statement Addendum ref. 2794
- Terminal schedule of dilapidations and wants of repair
- Build cost estimates

Upon further discussions with applicant, agent and planning officers, the applicant was given the opportunity to submit additional flood risk assessments and amended plans to overcome the flood risk issues. No amended information or plans were received.

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.

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: 12-Jan-2024

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](#), by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2023/62/90209/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
