Planning Application Decision Notice

To: Paul Ibberson,
Cadvis3d
The Towers, 237, Wakefield Road
Lepton
Huddersfield
HD8 0DH

For: Mr Tose

Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2023/62/90460/W

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 ROOF TERRACE TO REAR

At: 17, MARSH GROVE ROAD, EDGERTON, HUDDERSFIELD, HD3 3AG

In accordance with the plan(s) and applications submitted to the Council on 20-Feb-2023, except as amended or specified, details of which can be found in the table below. The reasons for the Council's decision to refuse permission for the development are:

The proposed roof terrace would result in unacceptable overlooking impacts on the neighbouring properties of No. 19 Marsh Grove Road and Nos. 30 and 32 Imperial Road, to the detriment of the residential amenity of the occupants. The scale of the terrace and its ensuing use could also result in noise and disturbance to neighbouring properties to the detriment of residential amenity. To permit the proposed roof terrace would therefore be contrary to Policy LP24(b) of the Kirklees Local Plan, Key Design Principle 3 and paragraph 5.28 in the Council's House Extensions and Alterations SPD and Policy within Chapter 12 of the National Planning Policy Framework.

Plans and Specifications Schedule:

Plan Type	Reference	Version	Date Received
Existing Plans	2251 A(00)-01	-	13.2.23
Proposed Plans	2251 A(10)-01	-	13.2.23

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 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 submitted plans raised significant concerns in terms of substantial harm which would be caused to residential amenity of the neighbouring properties by the proposed roof terrace. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. Given that the proposed roof terrace would be constructed over an existing rear extension and that any other means of mitigation (e.g. privacy screens) could also lead to visual harm officers considered that there was little scope for amendment. As such, amended plans have not been sought.

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

Site Notice

- 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 or 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.

- As this is a decision for a householder application, if you want to appeal against your Local Planning Authority's decision then you must do so within 12 weeks of the date of this notice.

- 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) 12 weeks of the date of this notice,

  which ever period expires earliest.

- 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 Inspectorates 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.

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: 14-Apr-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 Council Planning, and by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2023/62/90460/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