Town and Country Planning Act 1990

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

PLANNING PERMISSION FOR DEVELOPMENT

Application Number: 2023/62/90672/W

To: Paul Briggs,
Northern Design Partnership
The Chapel
Mill Moor Road
Meltham
Holmfirth
HD9 5JU

For: T Burgin

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:-

ERECTION OF INDUSTRIAL UNIT AND ASSOCIATED PARKING (WITHIN A CONSERVATION AREA)

At: OLD RAILWAY GOODS YARD, SCAR LANE, MILNSBRIDGE, HUDDERSFIELD, HD3 4PE

In accordance with the plan(s) and applications submitted to the Council on 08-Mar-2023, 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 LP24 and LP35 of the Kirklees Local Plan.

3. Before work on the building above foundation level commences, samples of the external facing materials to be used, and – notwithstanding the colour shown on the approved plan - the finish colour of the roof cladding, shall be left on site for the inspection of / submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out using the approved materials.
Reason: To ensure the satisfactory appearance of the development on completion, to ensure that the development conserves and enhances the character of the Milnsbridge Conservation Area and to accord with the aims of Policies LP24 and LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework.

4. Before any part of the development is first brought into use, all areas indicated to be used for the parking of vehicles on the site plan as proposed shall have been formed and laid out with a hardened and drained surface. Any new hardstanding shall be 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 (ISBN 9781409804864) as amended or any successor guidance, unless arrangements have been made to direct run-off water to a soakaway or sustainable drainage system within the site. These areas shall be so retained, free of obstructions and available for the parking of vehicles.
Reason: To ensure adequate space within the site for parking in the interests of amenity and traffic safety, to minimise contribution to flood risk arising from water run-off from the site, and to accord with the aims of Policies LP21, LP22 and LP28 of the Local Plan and Chapter 14 of the National Planning Policy Framework.

5. Before the new building is first brought into use, the cobbled surface of the driveway, where indicated by grey shading on the site plan, shall be replaced by an alternative carriageway construction, details of which shall be submitted to and approved in writing by the Local Planning Authority before works on the driveway commence. This, and the other access improvement works shown on the approved site plan, comprising the kerbing and road markings, shall be implemented before the new building is first brought into use and thereafter retained as such.
Reason: To ensure that highway safety is not compromised through increased vehicular traffic to and from the site arising from the development, and to accord with the aims of Policy LP21 of the Kirklees Local Plan.

6. A minimum of one electric vehicle recharging point shall be installed within one of the parking spaces as shown on the plan before any part of the development is first brought into use. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.
Reason: In accordance with the aims of Policy 24(d & v) of the Kirklees Local Plan and government guidance on air quality mitigation, outlined within the Planning Practise Guidance and Chapter 14 of the National Planning Policy Framework, so as to promote infrastructure which encourages modes of transport with low impact on air quality.

7. Before construction work commences, a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:

a) an assessment of all of the noise emissions from the proposed development
b) details of existing background and predicted future noise levels at the boundary of the nearest noise sensitive premises
c) a written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation
The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: This is a pre-commencement condition to ensure that potential noise emissions can be investigated and, if appropriate, mitigation measures imposed during construction, to ensure that the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, to comply with the aims and objectives of Policies LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

8. Notwithstanding the details contained within the application form, no activities shall be undertaken within the proposed building outside the hours of:
• 0800hrs to 1800hrs Monday to Friday, and
• 0800hrs to 1300hrs Saturday
• With no use permitted on Sunday and Bank Holidays
There shall be no deliveries to or dispatches from the premises, outside these hours.
Reason: To ensure that the proposed uses does not give rise to the loss of amenity to nearby residential properties by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

9. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.
Reason: This is a pre-commencement condition to ensure that potential contamination can be investigated in the interests of the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

10. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 9, groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.
Reason: This is a pre-commencement condition to ensure that potential contamination can be investigated in the interests of the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

11. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 10, further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.
Reason: This is a pre-commencement condition to ensure that potential contamination can be remediated in the interests of the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

12. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 11. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, 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. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
Reason: In the interests of the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

13. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and 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. 183 and 184 of the National Planning Policy Framework

14. No external lighting shall be installed until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information:
a) The proposed hours of operation of the lighting
b) The location and specification of all of the luminaires
c) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated.
d) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site
e) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.
The external artificial lighting shall be installed and operated thereafter in accordance with the approved scheme.
Reason: To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with Chapters 12 and 15 of the National Planning Policy Framework and Policy LP52 of the Kirklees Local Plan.

NOTE: Artificial lighting
The proposed design levels of illuminance should be shown to be appropriate for the intended use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with the “Guidance Note 01/21 for the Reduction of Obtrusive Light” by the Institution of Lighting Professionals: 2021 www.theilp.org.uk. The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for the corresponding Environmental Zone (i.e. E0 to E4).

NOTE – Contamination reports
All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. 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, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.
The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: Bats. There is the potential for a bat roost to be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Construction Site Working Times – Footnote
It is recommended that noisy construction related activities should not take place outside the hours of:
07.30 to 18.30 hours Mondays to Fridays
08.00 to 13.00hours Saturdays
With no noisy activities on Sundays or Public Holidays

Construction Sites working times – Footnote
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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			01-Mar-2023
Location plan			01-Mar-2023
Site plan and elevations as existing	2257-01	A	15-Jun-2023
Site plan and elevations as proposed	2257-02	C	22-Aug-2023
Design & access statement			01-Mar-2023
Climate change statement			01-Mar-2023
Tree report	Holme Valley Arboriculture		01-Mar-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 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. The case officer undertook negotiations with the applicant to secure changes to external materials, improvements at access to the public highway and changes to roof design. The plans were not re-advertised since they were not considered to raise new issues that would require the opportunity for further public comment.

Pre-Commencement Conditions were agreed in writing with the Agent.

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: 04-Sep-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 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 2023/62/90672/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
