



**Town and Country Planning Act 1990**

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

**REFUSAL OF PERMISSION FOR DEVELOPMENT**

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**Application Number: 2023/62/90988/E**

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**To:** Paul Matthews Architectural  
Malkin Farm  
Brow Lane  
Holmfirth  
HD9 2RJ

**For:** M Steel

**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  
REAR OF, 3, EAST FOLD, SKELMANTHORPE, HUDDERSFIELD, HD8 9EZ

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**In accordance with the plan(s) and applications submitted to the Council on 05-May-2023. The reasons for the Council's decision to refuse permission for the development are:**

1. The application site is located within the designated Green Belt, whereby, as set out in the National Planning Policy Framework, development, subject to certain exceptions, is regarded as inappropriate. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposed erection of a detached dwelling is considered to constitute inappropriate development in the Green Belt, thus, detrimentally harming the openness and character of the Green Belt, whereby no appropriate very special circumstances have been demonstrated sufficient to outweigh harm. To permit the proposed development would impact adversely upon the openness of the Green Belt contrary to paragraphs 147, 148 and 149 and the aims of Chapter 13 of the National Planning Policy Framework.

2. The proposed development, by reason of the failure to demonstrate adequate proposed mitigation, is considered disproportionate or inappropriate when considered against assessment of the risks posed by coal mining legacy. An inappropriate level of safety details with respect to coal mining legacy/risk, has the potential to result in an unsafe development. Therefore, to permit the proposals would be contrary to Policies LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework.

3. The proposed site layout would not allow for vehicles to park and turn within the site at one time; therefore, vehicles would not be able to enter and exit the site in a forward gear. The applicant has also failed to demonstrate suitable access for emergency vehicles. The scheme would not ensure the safe and efficient flow of traffic within the development or on the surrounding highway network, thus having a detrimental impact upon highway safety. To permit the development would be contrary to LP21 of the Kirklees Local Plan and Paragraphs 110 and 111 of the National Planning Policy Framework.

Plans and Specifications Table:

| <b>Plan Type</b>              | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------------|------------------|----------------|----------------------|
| Location Plan                 | 22/801/01c       |                | 09/05/2023           |
| Existing Block Plan           | 22/801/02c       |                | 09/05/2023           |
| Proposed Site Layout          | 22/801/04d       |                | 09/05/2023           |
| Proposed Plans and Elevations | 22/801/05c       |                | 09/05/2023           |
| Design and Access Statement   | 22/801           |                | 09/05/2023           |
| CMRA                          | 3632-23 CMRA     |                | 09/05/2023           |
| Climate Change Statement      | 22/801           |                | 09/05/2023           |

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 regarding the principle of a new dwelling within the Green Belt, land contamination issues and highway safety. The applicant was made aware of the concerns and was given the opportunity to submit additional information, primarily to overcome the concerns regarding land contamination. No additional information was provided.

## **Development within a Coal Mining Area**

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://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](mailto: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](mailto:dc.admin@kirklees.gov.uk) so that we can work on continually improving our customer service. Thank you.

**Dated:** 09-Aug-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](#), by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2023/62/90988/E.

If a paper copy of the decision notice or decided plans are required please email [dc.admin@kirklees.gov.uk](mailto:dc.admin@kirklees.gov.uk) or telephone 01484 414746 with the application number. There may be a charge for this service.

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All communications should be sent to one of the following address:

**E-mail:** [dc.admin@kirklees.gov.uk](mailto:dc.admin@kirklees.gov.uk)

**Write to:** Kirklees Council  
Planning and Development Service  
PO Box 1720  
Huddersfield  
HD1 9EL

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